

(2011) 12 KAR CK 0189
In the Karnataka High Court
Case No : Criminal Petition No. 5805 of 2011

Sri Raksha Agriculture Associates

APPELLANT

Vs

Manjushree Plantation Ltd.

RESPONDENT

Date of Decision : 02-12-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 91

Citation : (2011) 12 KAR CK 0189

Hon'ble Judges : B.V. Pinto, J

Bench : Single Bench

Advocate : M.V. Hiremath, for the Appellant;

Final Decision : Allowed

Judgement

B.V. Pinto

1. Police have reported that, service of notice has been effected on the respondent who is a company and one Sri. Sreekumar, Accountant has received notice on behalf of the company. Service hold sufficient.

2. This petition is filed seeking to set aside the order dated 19.08.2011 passed by the 14th Additional Civil Metropolitan Magistrate, Bangalore in CC No.27360/2004.

3. The petitioner is accused in the said case. He has filed an application on 26.05.2011 U/s. 91 of Cr.P.C requesting the Court to summon certain documents pertaining to the company. The company is the complainant. However, respondent/Complainant has filed objections to the said application on 02.07.2011 the learned Magistrate by an order dated 19.08.2011 rejected the said application saying that, said documents are unnecessary.

4. Respondent has been served and endorsement indicates that, copy of the petition has been received by the respondent.

5. Under the circumstances, in view of the fact that, documents sought to be

summoned are with reference to the transactions of the complainant's company more particularly Audit report and statement of accounts etc. and since the said documents have a bearing on the liability of the petitioner towards the company in respect of cheque for a sum of Rs. 11,65,000/-, I am of the opinion that by production of said documents no prejudice would be caused to the Respondent. On the other hand, said documents are relevant for the defence of the petitioner. Hence, order of the learned Magistrate is erroneous and necessarily it requires to be set aside.

6. Accordingly, the petition is allowed. The learned Magistrate is directed to summon the documents as prayed for by the petitioner in the application dated 26.05.2011. In view of the fact that, case pertains to the year 2004, the learned Magistrate is directed to dispose of the case within six months from the date of communication of this order.

7. The learned counsel for the petitioner undertakes to communicate the order to the Court of learned Magistrate on the next date of hearing.