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**IN THE COURT OF SENIOR CIVIL JUDGE & PRL. JMFC.,
KUMTA.**

Dated this the 14th day of November, 2022

PRESENT

**Smt.Bhamini, B.A., L.L.B.,
Senior Civil Judge
& Prl. JMFC., Kumta.**

C.C.No.141/2018

Complainant: Meenugarar Sahakari Sangha Ltd.,
Tadadi, represented by its Clerk
Ganapati Ganesh Sabhahit,
Aged 50 years, R/o. Tadadi,
Tq. Kumta.

(By Sri. Y.V.S., advocate)

V/s

Accused: Ravikiran Mohan Naik,
Aged about 29 years,
Occ: Business,
R/o. Tadadi paiki Belegadde,
Post: Tadadi,
Tq. Kumta – 581 326.

(By Sri. P.S.N., Advocate)

Orders on application filed by the accused under Section 91 of Cr.P.C.

When the matter is in the stage of further cross examination of PW-1, the accused has filed this application to direct the complainant to produce the receipts regarding the purchase of fish by him from the complainant on credit basis. Complainant has opposed this application by filing its written objections.

2. Accused has contended that since there is a huge difference between the account statement produced by the complainant and the amount paid by him regarding the purchase of fish from the complainant on credit basis, the receipts regarding the fish purchased by him from the complainant are necessary for this case. Hence, the accused is constrained to file this application.

3. On the other hand, complainant has denied the aforesaid contention of the accused. Complainant has contended that in the auction of fish on credit it gave original receipts to the accused and its second copy was given to the owner of the boat, from 14-08-2014 to 27-02-

2015 the accused had purchased fish from the complainant in total for 135 times on credit and issued receipts for each sale, after filing this application when the complainant searched for receipt books of the aforesaid period, they could not get the same, hence it is not in a position to produce the documents sought to be produced by the accused and the accused can produce the receipts issued to him by the complainant. Hence, prayed for rejection of this application.

4. I have heard the arguments addressed by the learned advocates for accused and the complainant.

5. Following points arise for my consideration:

1. Whether the accused has made out a sufficient ground to direct the complainant to produce the receipts regarding the sale of fish?
2. What order?

6. My findings on the above points are as follows:-

Point No.1 : In the Negative

Point No.2 : As per final order

For the following;

REASONS

7. Point No.1: Complainant has filed this complaint against the accused for the offence punishable under Section 138 of the Negotiable Instruments Act.

8. Accused has contended that since there is difference between the account statement produced by the complainant and the amount paid by the accused regarding the purchase of fish from the complainant, the receipts regarding the fish purchased by him are necessary for this case. On the other hand complainant has contended that after auctioning the fish to the accused, it gave original receipt to him, its second copy was given to the owner of the boat, after filing this application when the complainant searched for receipt books, they could not get the same, hence it is not in a position to produce the documents sought to be produced and the accused can produce the receipts issued to him by the complainant.

9. It is not the case of the accused that at the time of auction of fish on credit, the complainant had not issued any receipts to him. When the complainant had issued receipts sought in this application to the accused, the

accused can produce the same before this Court to probabalise his defence. Moreover, the complainant has clearly stated that inspite of its thorough search, it could not get the receipts sought to be produced.

10. Under these circumstances, I am of the opinion that the accused has not made out a sufficient ground to direct the complainant to produce the receipts regarding the sale of fish. Accordingly, I answered this point in the Negative.

11. **Point No.2**: In view of my findings on the point No.1, I proceed to pass the following:

ORDER

Application filed by the accused under Section 91 of Cr.P.C. is hereby rejected. For further cross examination of PW-1 as a last chance and finally by 21-11-2022.

(Dictated to the stenographer, transcribed by her, then corrected and pronounced by me in the open Court on this the 14th day of November, 2022)

(Smt. Bhamini)
Senior Civil Judge &
Prl. JMFC., Kumta.

