

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.12.2015

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.R.C.No.1254 of 2015

&

M.P.No.1 of 2015

V.Mohan

.. Petitioner

vs.

N.Samithurai

.. Respondent

Criminal Revision filed under section 397 and 401 Cr.P.C. to set aside the order dated 16.10.2015 passed in Crl.M.P.No.500 of 2014 in C.A.No.27 of 2012 by the Additional District and Sessions Judge, Kancheepuram.

For Petitioner : Mr.C.Umashankar

O R D E R

This revision arises against an order passed by the learned Additional District and Sessions Judge, Kancheepuram dated 16.10.2015 in Crl.M.P.No.500 of 2014 in C.A.No.27 of 2012.

2. The petitioner faced prosecution for offence under Section 138 of the Negotiable Instruments Act in C.C.No.1125 of 2011. He was convicted by the trial Court and sentenced to undergo 6 months S.I. and fine of Rs.500/-, i/d, 1 month S.I. The petitioner / accused was further directed to pay sum of Rs.50,000/- as compensation to the complainant. There against, he moved C.A.No.27 of 2012 on the file of Additional District and Sessions Judge, Kancheepuram. In such appeal, the petitioner moved Crl.M.P.No.500 of 2014 seeking examination of two cheques by an expert. Such application has been dismissed giving rise to this revision.

3. This Court heard the submissions of learned counsel for petitioner.

4. In dismissing Crl.M.P.No.500 of 2014, the Court below has taken into consideration the position that the petitioner had not moved any application for examination of the cheques by an expert before the trial Court; that having filed an appeal in the year 2012, the application has been moved only in the year 2014, that the intent of the petitioner is only to protract the

proceedings and further observed that the contradictory stands of the petitioner regards the manner in which the cheques were lost, viz., the petitioner had informed that the cheques had been lost from his table and subsequently that in clearing the house, the cheques came to be thrown out and the same were used by the respondent/complainant. A reply to the statutory notice under Section 138 was sent by the petitioner after very much delay and even at that stage, the petitioner had not disputed his signature upon the instruments. On the above consideration, the Court below dismissed the petition. We find no reason to interfere with the same.

This Criminal Revision is dismissed. The Court below shall deal with the appeal uninfluenced by any of the observations made by this Court. Consequently, connected miscellaneous petition is closed.  
gpa

-s/d-

Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

To

1. The Judicial Magistrate  
Fast Track Court, Alandur
2. do thro' The Chief Judicial Magistrate,  
Kancheepuram.
3. The Additional District & Sessions Judge  
Chengalpet
4. The Public Prosecutor,  
High Court, Madras.

+ 1 cc to Mr.C.Umashankar, Advocate SR 65614

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