

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2015

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Cr1.R.C.No.278 of 2015

&

M.P.Nos.1 to 3 of 2015

Mrs.K.Thilakavathy

.. Petitioner

Vs.

P.V.Karthikeyan

... Respondent

PRAYER: Criminal Revision Case filed under section 397 r/w. 401 Cr.P.C praying to set aside the order in C.M.P.No.679 of 2015 in STC No.498 of 2014 dated 24.02.2015 on the file of the Judicial Magistrate (FTC), Ambattur.

For Petitioner : Mr.S.Sridevi

For Respondent : No appearance.

ORDER

This Criminal Revision Petition has been filed against the order passed by the learned Judicial Magistrate (FTC), Ambattur dated 24.02.2015 made in S.T.C.No.498 of 2014.

2. Heard the learned counsel for the petitioner. Though notice has been served on the respondent and his name is printed in the cause list, he has not chosen to enter appearance either in person or through counsel. Hence, the matter is taken up on merits.

3. The petitioner borrowed a sum of Rs.8,00,000/- from the respondent's wife on 22.06.2009 for the purpose of building a house in the property situated in Plot No.1010/1A part 1011/2 part in Korattur Village under the memorandum of understanding wherein it was agreed to repay the loan within a period of one year and the petitioner has issued 8 post dated cheques in favour of the respondent as security. Since the loan amount was not repaid by the petitioner, the respondent and his wife filed complaints which were taken on file as S.T.C.No.498 of 2014, S.T.C.No.123 of 2014, S.T.C.No.132 of 2014 and S.T.C.No.520 of

2014 by the learned Judicial Magistrate (Fast Track Court), Ambattur. The trial Court convicted the petitioner in S.T.C.No.132 of 2014. The petitioner filed C.M.P.No.679 of 2015 before the trial Court seeking joint trial of S.T.C.No.498 of 2014, S.T.C.No.123 of 2014 and S.T.C.No.520 of 2014 and the trial Court relying on the decision rendered by this Court dismissed C.M.P.No.679 of 2015 by order dated 24.02.2015.

4. The only point which has been raised by the petitioner is that the trial Court ought not have dismissed the petition seeking joint trial when the posted dated cheques were issued only in respect of the same transaction, namely as a security for the loan amount of Rs.8,00,000/- received by petitioner under a memorandum of understanding.

5. This Court carefully considered the arguments advanced by the learned counsel for the petitioner and perused the order of the Court below.

6. The learned counsel for the petitioner submitted that in Manjula Vs. Colgate Palmolive (India) Limited reported in 2006 (5) CTC 303, a Division Bench of this Court held that offences committed by same person in respect of 16 cheques can be held to be part of transaction and a joint trial can be ordered.

7. The said decision relied on by the petitioner is not applicable to the present case for the reason that the facts of the case decided by the Division Bench is different from the facts of the case on hand. In the present case, the cheques in S.T.C.No.498 of 2014 and S.T.C.No.123 of 2014 were issued by the Karthikeyan, the husband and the cheque in S.T.No.520 of 2014 was issued by his wife. Therefore, the cheques were not issued by the same person. In Ganesan Vs. State reported in 2011 (1) LW (Crl.), the Hon'ble Supreme Court has held as follows:

"In any event the trial Court shall not record common

evidence, substitute the evidence in one case as evidence in the other case and shall not consider the evidence in one case in the other case. In no case the trial Court shall deliver a common judgment in two or more cases."

8. Already the petitioner has been convicted in S.T.C.No.132 of 2014. The only grievance of the petitioner is that the cheques were given under a memorandum of understanding as a security for the repayment of the loan amount. This Court is of the view that this defence can always be taken by the petitioner in the trial and the same cannot be projected as a ground for seeking joint trial. At the best they can seek only for simultaneous trial of

all the cases, but the evidences should be recorded separately and the judgment to be given separately.

9. In the result, this criminal revision petition is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst.Registrar

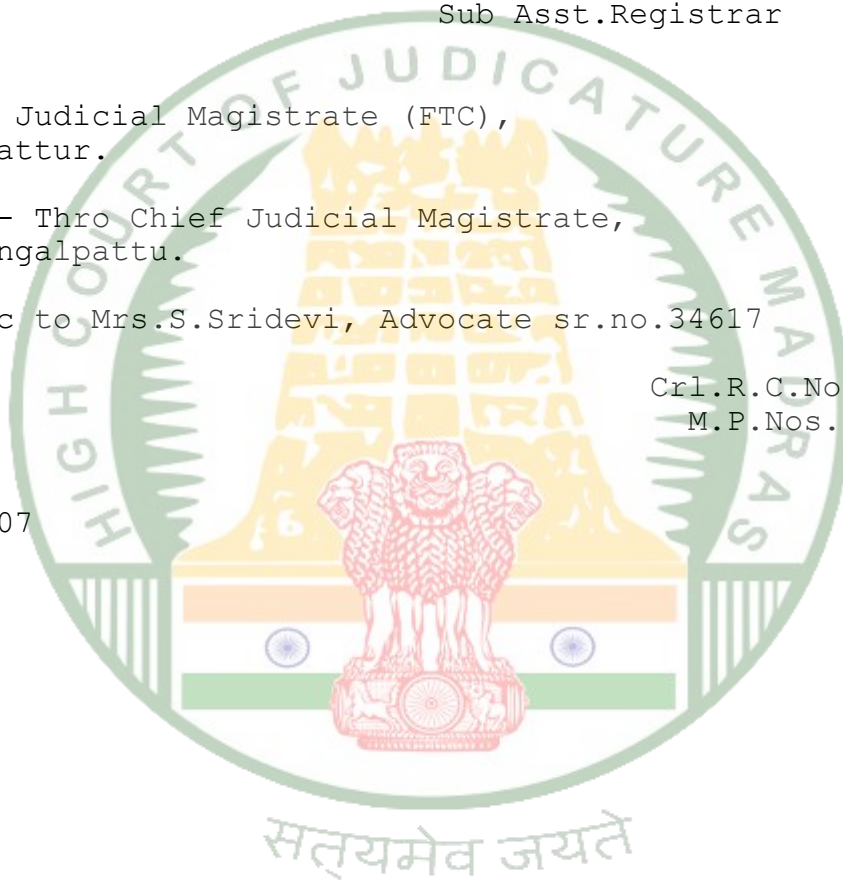
To

1. The Judicial Magistrate (FTC),
Ambattur.
2. -Do- Thro Chief Judicial Magistrate,
Chengalpattu.

+1cc to Mrs.S.Sridevi, Advocate sr.no.34617

Crl.R.C.No.278 of 2015 &
M.P.Nos.1 to 3 of 2015

ku[co]
srg 29.07



WEB COPY