

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Crl.Revision Case No.685 of 2010

T.Mohankumar

.. Petitioner

vs

B.Karthikeyan

.. Respondent

Revision Petition filed under Sections 397 read with Sec. 401 of Cr.P.C. against the judgment dated 24.06.2010 passed in C.A.No.116 of 2009 on the file of the I Additional District and Sessions Judge, Erode, confirming the judgment dated 24.06.2009 passed in C.C.No.216 of 2008 on the file of the Judicial Magistrate No.3, Erode, convicting the petitioner under Section 138 of the Negotiable Instruments Act, and sentencing him to undergo rigorous imprisonment for two years.

For Petitioner	:	Mr.M.T.Arunan
For Respondent	:	No Appearance

ORDER

The Criminal Revision Case is directed against the judgment dated 24.06.2010 passed in C.A.No.116 of 2009 on the file of the I Additional District and Sessions Judge, Erode, confirming the judgment dated 24.06.2009 passed in C.C.No.216 of 2008 on the file of the Judicial Magistrate No.3, Erode, convicting the

petitioner under Section 138 of the Negotiable Instruments Act, and sentencing him to undergo rigorous imprisonment for two years.

2. When the matter was listed on 10.07.2015, there was no representation on behalf of the petitioner. Hence, the matter was ordered to be listed under the caption, 'for dismissal' on 16.07.2015. Even on 16.07.2015, the learned Counsel for the petitioner was not ready. Hence, the matter is listed today under the caption, 'for dismissal'. Even today, the learned Counsel for the petitioner is not ready to argue the matter. Anyhow, on considering the fact that the Criminal Revision is pending on the file of this Court for the past five years without any progress and the fact that the revision has been preferred against the concurrent judgments of the courts below, this Court is left with no other option except to dispose of the matter on merits.

3. A perusal of the grounds of revision would disclose that the only ground urged by the petitioner is that the courts below have failed to appreciate the evidence of P.W.1 for the proposition that there is no such address of the complainant as

mentioned in the private complaint preferred before the learned Magistrate concerned. In this regard, it appears that even though the Village Administrative Officer of the concerned area was examined as D.W.1, no document has been produced to show that the complainant is residing somewhere else. It has been rightly pointed out by the courts below. Further, the Village Administrative Officer has deposed that though the complainant has mentioned his address as Raja Street, there is no such street in Periyar Nagar, but there is a place called Rajakadu in which there are 3 streets where Karuppan Street and Rajakadu are situated. He has also deposed that Karthikeyan lived in Karuppan Street only for 3 months. In order to disprove the same, no evidence was let in on the side of the petitioner herein. Therefore, considering the overall facts of the case, the trial court has convicted the accused under Section 138 of the Negotiable Instruments Act and sentenced him accordingly which was confirmed by the lower appellate Court in which I do not find any infirmity to interfere with the same.

4. At this stage, the learned Counsel for the petitioner would pray that at least, the petitioner may be imposed with lesser punishment.

5. Taking into consideration of the fact that there is no appearance on behalf of the respondent since no notice was served on him and further directing the petitioner to undergo the imprisonment imposed by the lower court will not serve any purpose, the sentence imposed on the petitioner is modified to the effect that he shall pay double the cheque amount, namely, Rs.10,00,000/- (Rupees Ten Lakhs Only) to the respondent, within a period of 3 months from the date of receipt of a copy of this Order and if the petitioner fails to comply with such condition, he has to undergo the sentence imposed by the trial court.

6. With the above modification, this Criminal Revision Case is dismissed.

21.07.2015

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To

1. The I Additional District and Sessions Judge, Erode
2. The Judicial Magistrate No.3, Erode.
3. The Public Prosecutor, Madras

B. RAJENDRAN, J

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