

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.04.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.276 of 2008
and

M.P. No. 1 of 2008

K.Palanisamy

.. Petitioner/Accused

vs

S.Balasubramani

.. Respondent/Complainant

Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C. to set aside the order dated 08.02.2008 passed in CrI.M.P.No.370 of 2008 in C.C.No.73 of 2007 on the file of the learned Judicial Magistrate No.I, Erode.

For Petitioner : Mr.C.Prabakaran
For Respondent : Mr.S.Viswanathan

ORDER

The petitioner has come forward with this Criminal Revision Petition as against the dismissal order dated 08.02.2008 passed by the learned Judicial Magistrate No.I, Erode in the application filed under Section 91 of the Criminal Procedure Code in CrI.M.P.No.370 of 2008 in C.C.No.73 of 2007.

2. The case in brief is as follows:

The respondent herein preferred a private complaint in C.C.No.73 of 2007 on the file of the learned Judicial Magistrate No.I, Erode as against the petitioner herein for the alleged offence under Section 138 r/w 142 of the Negotiable Instruments Act, 1881 on the ground that the cheque issued by the petitioner to discharge his liability was returned dis-honoured on account of insufficient funds. Before the court below, the petitioner herein filed an application under Section 91 of the Cr.P.C., to produce certain documents pertaining to the respondent/complainant. The said application was dismissed by the learned Magistrate vide the impugned order. Hence, the present revision.

3. The only ground raised by the petitioner is that he has not received any loan from the complainant; but he has borrowed the loan from a finance firm and in respect of the same, he has issued the said cheque. According to the petitioner, the complainant, who is only an employee in the finance firm, has misused the same and has preferred this complaint. He would further submit that only in order to produce the same, he has preferred the application under Section 91 of Cr.P.C. However, the same was wrongly rejected by the Court

below. Accordingly, he would pray for setting aside the same.

4. Learned Counsel for the respondent vehemently argued that the Court below after analysing the oral and documentary evidence adduced has given sound reason for dismissing the petition, especially when the petitioner has not even chosen to give a reply to the statutory notice. If really, the cheque has not been issued by the petitioner to the complainant, he should have given strong reasons for denying the same by replying to the statutory notice issued. Without doing so, the petitioner has successfully dragged on the matter for the past seven years.

5. Heard both sides and the main criminal revision case itself is taken up for final disposal, since the matter is pending for several years.

6. Considering the facts and circumstances of the case, this Court is not inclined to give any opinion about the merits of the matter. Suffice to state that the order passed by the Court below is a reasonable one, especially taking into consideration the fact that the petitioner has not even replied to the statutory notice issued by the respondent/complainant at the earliest point of time. Since the matter is pending for more than seven years, the Court below shall dispose of the very case itself, by taking into account all the aspects, after giving due opportunity to the petitioner and pass reasoned order independently, de hors any observation made in this order, within a period of four months from the date of receipt of a copy of this order.

7. With the above observation, this Criminal Revision case is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vj2

To

1. The Judicial Magistrate No.I, Erode.
- 2.-do- Thro The Chief Judl.Magistrate, Erode.
3. The Public Prosecutor, Madras.3
- 4.The Section Officer, Crl.Section, High court, Madras-104.
(to return the records)

1 cc to Mr. C.Prabhakaran, Advocate, SR.No.19223.

Crl RC No.276 of 2008

rj(co)

pnk-15.4.2015

<https://hcservices.ecourts.gov.in/hcservices/>