

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2016

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.1251 of 2015

and

M.P.Nos.1 and 2 of 2015

N.Vijayakumar

...Petitioner/Appellant/
Accused

vs.

P.Rajkumar

...Respondent/Respondent/
Complainant

Criminal Revision filed under Section 397 and 401 Cr.P.C. to call for the records on the file of the Learned Principal District and Sessions judge, Vellore, Vellore District, in Crl.A.No.3 of 2014 dated 16.06.2015 by confirming the judgment and sentence passed in C.C.No.58 of 2012 on the file of the Learned Judicial Magistrate(Fast Track Court), Vellore, Vellore District dated 03.01.2014 and set aside the judgment dated 16.06.2015.

For Petitioner : M/s.E.Kannadasan

For Respondent : Mr.C.Prabakaran

सत्यमेव जयते
O R D E R

This revision arises against two concurrent judgments of Courts below convicting the petitioner for offence u/s.138 of the Negotiable Instruments Act and sentencing him to 6 months S.I. and fine of Rs.5,000/- i/d 2 months S.I.

2. Respondent/de facto complainant preferred a complaint informing that petitioners borrowed a sum of Rs.10,00,000/- and undertook to repay the same with 18% interest. Upon the respondent insisting repayment, petitioners issued a cheque bearing No.834433 drawn on Karur Vysya Bank Limited, Arni Branch. Respondent presented the cheque, which was returned unpaid for the reason 'insufficient of funds'. Respondent caused

statutory notice, followed the procedure envisaged under section 138 of the Negotiable Instruments Act and preferred the complaint. The case was tried in C.C.No.58 of 2012 on the file of learned Judicial Magistrate, Fast Track Court, .

3. Before the trial Court, the prosecution examined 2 witnesses and marked 8 exhibits. None were examined on behalf of the defence nor were any exhibits marked. On appreciation of materials before it, trial Court, under judgment dated 03.01.2014, acquitted the accused. Aggrieved, petitioner/de facto complainant preferred an appeal in C.A.No.3 of 2014 on the file of Learned Principal District and Sessions judge, Vellore, Vellore District, which came to be dismissed under judgment dated 16.06.2015. Hence, this revision.

4. Heard learned counsel for petitioner and learned counsel for respondent.

5. Courts below, in convicting the petitioner, found that the respondent has proved his case and the petitioner/accused has failed to rebut the presumption under section 139 of Negotiable Instrument Act. Though the petitioner, in his reply notice dated 13.12.2012, has averred that he and the complainant are relatives, that there was a family dispute, that he had not borrowed money from the complainant and that the complainant has stolen his cheque and promissory note and misused the same, the petitioner/accused has not mentioned the date on which the cheque and promissory note were stolen. Further, even after receipt of notice issued by complainant, the petitioner/accused did not prefer any complaint against the complainant. Moreover, the signature found in the cheque and promissory note was not disputed by the petitioner/accused. On the above finding, Courts below rendered a finding of conviction. This Court finds no reason to interfere with the order under challenge.

6. This Criminal Revision is dismissed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

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To

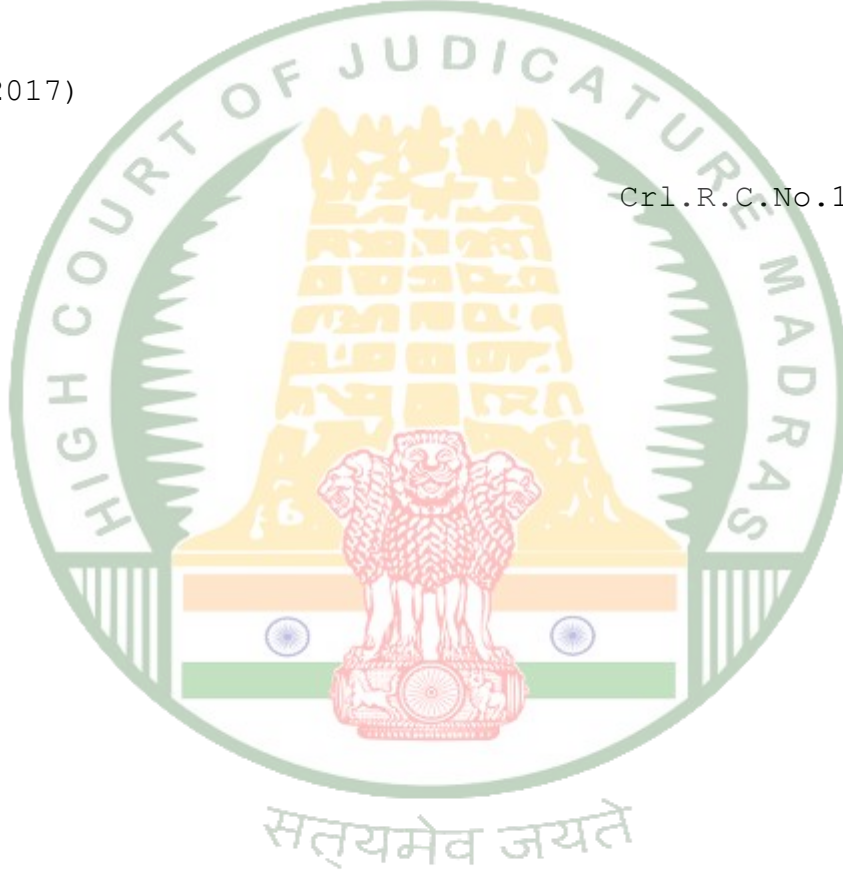
1. The Principal District and Sessions Judge,
Vellore, Vellore District.
2. The Judicial Magistrate(Fast Track Court),
Vellore, Vellore District.

+lcc to Mr.Prabakaran, Advocate, S.R.No.66047

+lcc to Mr.Kannadasan, Advocate, S.R.No.66330

ACA(CO)
RS(03/02/2017)

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