

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2016

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Crl.R.C.No.1069 of 2010
and
M.P.No.1 of 2010

C.Manivasagam ...Petitioner/Accused

vs

K.Thirunavukkarasu ...Respondent/Complainant

Criminal Revision Case filed under section 397 r/w 401 of the Code of Criminal Procedure, to set aside the order dated 30.08.2010 in Crl.M.P.No.4568 of 2009 in STC.No.334 of 2006 on the file of the learned Judicial Magistrate No.II, Chidambaram.

For Petitioner : Mr.P.R.Thiruneelakandan

For Respondent : Mr.A.S.Velmurugan

O R D E R

This Criminal Revision Case has been filed against the order dated 30.08.2010 in Crl.M.P.No.4568 of 2009 in S.T.C.No.334 of 2006 on the file of the learned Judicial Magistrate No.II, Chidambaram.

2. The petitioner is the accused. The respondent filed a private complaint against the petitioner for an offence under Section 138 of Negotiable Instrument Act, on the ground that the petitioner has borrowed a sum of Rs.2,00,000/- as hand loan from the respondent and in order to discharge the above said loan amount, the petitioner issued two cheques bearing Nos.862506 and 862507 each for one lakh dated 24.02.2002 and 28.02.2002 and when the cheques were presented before the drawee bank and the same were dis-honoured on the ground of "account closed". After completing the legal formalities, the respondent filed a private complaint through his power of attorney, namely, one Mathiazhagan before the Judicial Magistrate No.II, Chidambaram. The learned Judicial Magistrate taken cognizance of the offence and taken the matter on file in S.T.C.No.334 of 2006 and issued summons to the petitioner. Thereafter, pending criminal case, the respondent cancelled the power of attorney given in favour

of said Mathiazhagan and given fresh power of attorney in favour of one Thangamani and filed an application to accept the above new power of attorney and permit him to continue the criminal proceedings. The above application has been objected by the petitioner on the ground that in the power of attorney, the dates of the cheques has been given as 24.02.2004 and 28.04.2004. The date mentioned in the complaint is defer, hence, the power of attorney cannot be permitted to continue the criminal case based on the above said power. The Court below after considering the rival submissions allowed the application holding that it is only a typographical error found in the power of attorney deed and regarding the discrepancies found in the power deed, it can be decided at the time of trial. Challenging the same, the present criminal revision case has been filed.

3. Heard both sides and perused the materials available on record.

4. The one and only objection raised by the petitioner is that the power of deed given in favour of the power of attorney, the dates of cheques varies. Hence, based on the same, the power of attorney cannot be permitted to continue the criminal proceedings. The Court below, after considering the cheques and the earlier power deed and date mentioned therein, came to the conclusion that it is only the typographical error, which can be condoned and allowed the application. However, the trial Court has considered the objection raised by the petitioner and has held that regarding the discrepancies found in the power deed it can be raised during trial. In the above circumstances, the right of the petitioner to contest the above discrepancies has been preserved by the trial Court, I find no illegality or irregularity in the order passed by the Court below and hence there is no merit in the criminal revision case and the same is liable to be dismissed.

5. In the result, the criminal revision case is dismissed. Consequently, connected M.P. is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

rrg

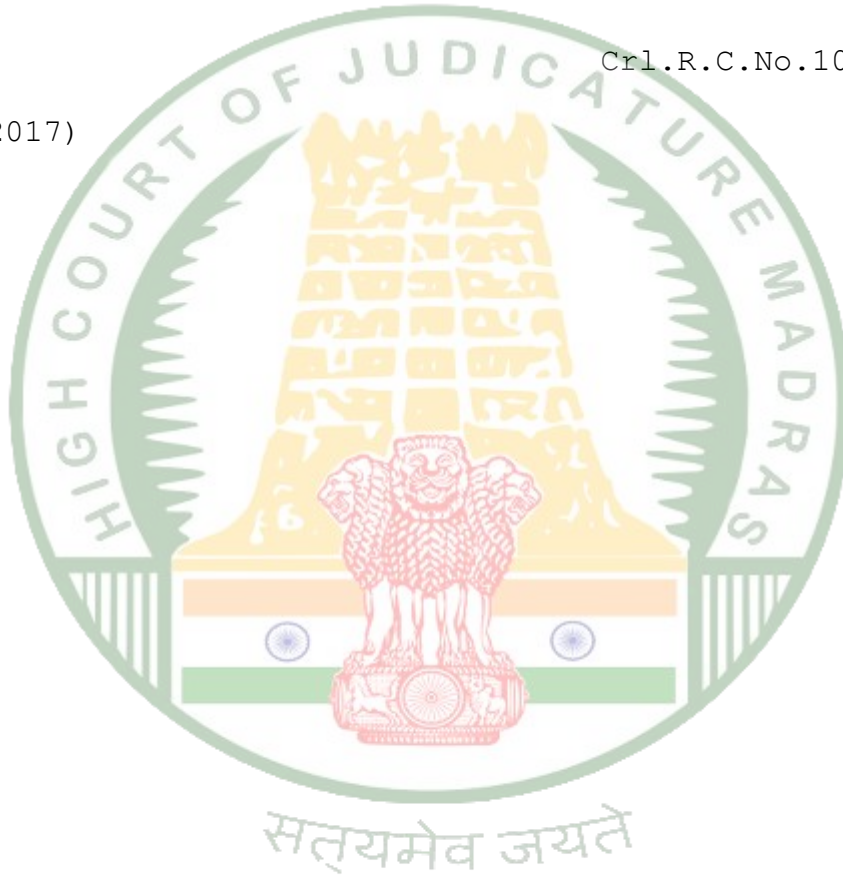
To

The Judicial Magistrate No.II,
Chidhambaram.

+1cc to Mr.P.S.Thiruneelakandan, Advocate, S.R.No.74220

KJ(CO)
RS(28/06/2017)

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