

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2016

CORAM

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

Crl.R.C.No.1003 of 2016

and

Crl.M.P.No.8067 of 2016

Suresh

S/o.Somasundaram

... Petitioner

Vs.

1.Kaliyaperumal (died)

2.Jayakodi

W/o.Kaliyaperumal

3.Umamaheswari

D/o.Kaliyaperumal

4.Sudha

D/o.Kaliyaperumal

5.Velmurugan

S/o.Kaliyaperumal

(Legal heirs of deceased Kaliyaperumal)

... Respondents

Prayer:- Criminal Revision Case filed under Section 397 and 401 of Cr.P.C. to re-appreciate the evidence available on record and may be set aside the conviction given by the III Additional Sessions Judge, Virudhachalam in C.A.No.34 of 2012 dated 24.07.2015 against the conviction and sentence passed by the learned Judicial Magistrate, Neyveli, Cuddalore District, in C.C.No.346 of 2007 dated 02.08.2012 and may be acquitted the accused and allow the revision petition.

For Petitioner : Mr.A.Arasu Ganesan
For Respondents : R1 Died
: No appearance [R2 to R5]

ORDER

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 1 year S.I. and fine of Rs.5,000/- i/d 6 months S.I.

2. First Respondent moved a prosecution informing that the petitioner borrowed a sum of Rs.4,50,000/- from him and the following cheques bearing Nos.(i)276476 dated 10.06.2007 for Rs.1,50,000/-, (ii)276477 dated 28.06.2007 for Rs.1,50,000/- and (iii) 276478 dated 10.07.2007 for Rs.1,50,000/- drawn on Tamil Nadu Industrial Co-operative Bank, Neyveli, stood issued to him by petitioner towards repayment of borrowing, which upon presentation were returned unpaid for the reason "insufficient funds". Respondent/complainant caused statutory notice and following the procedure envisaged under Section 138 of the Negotiable Instruments Act, a complaint had been filed.

3. Before the trial Court, respondents examined three witnesses and marked eleven exhibits. One witness was examined on behalf of the defence

and seven exhibits were marked.

4. On appreciation of materials before it, trial Court, under judgment dated 02.08.2012, convicted petitioner and sentenced him to 1 year S.I. and fine of Rs.5,000/- i/d 6 months S.I. There against, petitioner preferred C.A.No.34 of 2012 on the file of learned III Additional District and Sessions Judge, Cuddalore, Vridhachalam. Appellate Court, under judgment dated 24.07.2015, dismissed the appeal. There against, the present revision has been filed.

5. Heard learned counsel for petitioner. There is no appearance of respondents 2 to 5. Perused the materials on record.

6. In convicting the petitioner/accused, Courts below have found as follows:

(i) The contention of petitioner that he has issued the cheques only as security for the loan borrowed by his friend Tamizhvendan has been negated on the reasoning that while it was the case of petitioner/accused that he has not borrowed any amount from the complainant, then there was no necessity for him to pay a sum of Rs.10,000/- to PW-1, during the pendency of C.C.No.346 of 2007.

(ii) The contention of petitioner/accused that in Ex.P10, legal notice, the

cheque number and borrowal amount have been wrongly mentioned has been rejected on the ground that it was only a typographical error and in page Nos.2 and 3 of the notice, the cheque numbers and borrowal amount have been correctly mentioned.

(iii) Though DW-1, friend of petitioner/accused, deposed that the petitioner/accused stood as a security for the loan borrowed by him, in cross-examination, he has deposed that he has no knowledge whether the petitioner/accused borrowed loan from the complainant.

(iv) Petitioner/accused has not disputed the signature in the cheque and he has also admitted that even during the life time of the complainant, he pleaded discharge of the entire case amount.

For the aforesaid reasons and for other reasons, Courts below have found that respondents have proved his case and accordingly, convicted the petitioner/accused. This Court finds that a well-reasoned approach has been adopted by Courts below in arriving at a finding of conviction.

The Criminal Revision Case shall stand dismissed. Connected miscellaneous petition is closed.

16.12.2016

Index :Yes/No

Internet:yes
dpq

To

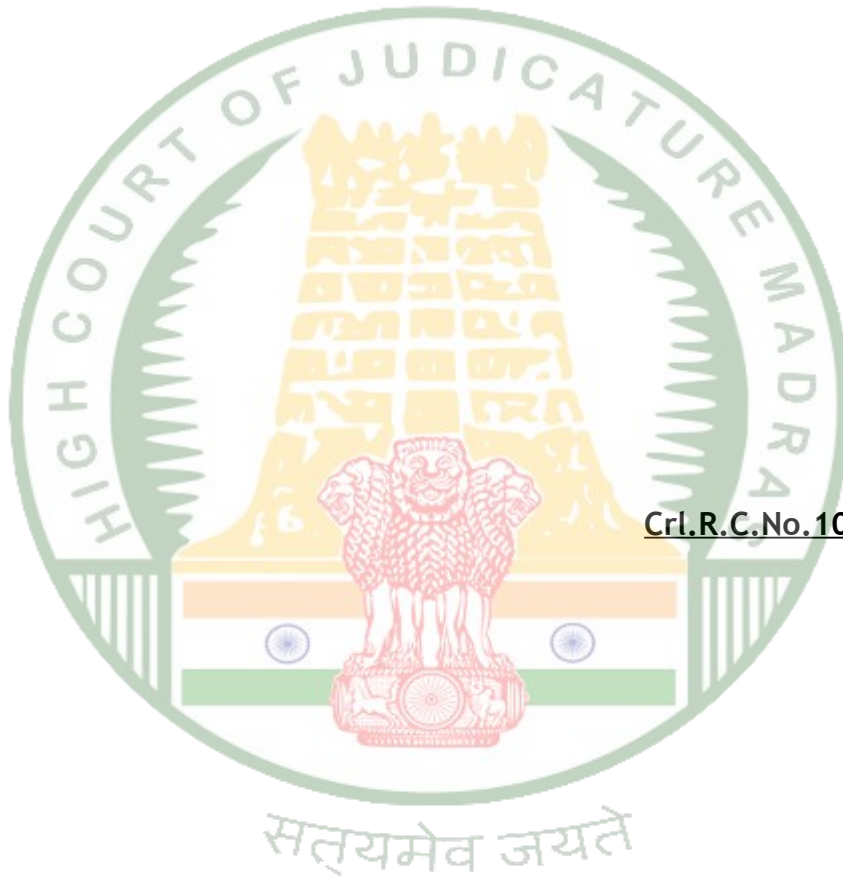
- 1.The III Additional Sessions Judge,
Virudhachalam.
- 2.The Judicial Magistrate,
Neyveli, Cuddalore District.



WEB COPY

C.T. SELVAM, J

dpq/gm



Crl.R.C.No.1003 of 2016

WEB COPY

16.12.2016