

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2016

CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

Crl.R.C.No.1017 of 2016

S.Subburam
S/o.Srinivasan

... Petitioner

Vs.

Ramkumar
S/o.Santhana Babu

... Respondent

Criminal Revision filed under Section 397 and 401 Cr.P.C. against the judgment of learned I Additional Sessions Judge, Tiruvallur, passed in C.A.No.45 of 2015 on 25.04.2016 confirming the judgment of learned Judge, Fast Track Court Magisterial Level, Tiruvallur, passed in C.C.No.58 of 2014 on 17.04.2015.

For Petitioner : Mr.C.Prakasam

For Respondent : No appearance

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 3 months S.I. and to pay compensation in a sum of Rs.60,000/- to the complainant i/d 15 days S.I.

2. Respondent/de facto complainant preferred a complaint informing that petitioner purchased bricks from the complainant for value of Rs.1,25,000/- and has issued two cheques (i) Cheque No.257134 dated 11.01.2014 in a sum of Rs.60,000/- drawn on UCO Bank, Korattur Branch and (ii) Cheque No.257135 dated 18.01.2014 in a sum of Rs.65,000/- drawn on UCO Bank, Ambattur Branch. Respondent presented Cheque No.257134 dated 11.01.2014, which was returned unpaid for the reason 'Insufficient 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 2014 on the file of learned Judge, Fast Track Court Magisterial Level, Tiruvallur.

3. Before the trial Court, the complainant examined himself and marked five exhibits. None were examined on behalf of the defence nor were any exhibits marked. On appreciation of materials before it, the trial Court, under judgment dated 17.04.2015, convicted the petitioner and sentenced him to 3 months S.I. and to pay compensation in a sum of Rs.60,000/- to the complainant i/d 15 days S.I. The appeal preferred by petitioner in C.A.No.45 of 2015 on the file of learned I Additional Sessions Judge, Tiruvallur, came to be dismissed under judgment dated 25.04.2016. Hence, this revision.

4. Heard learned counsel for petitioner, who submits that he has no instructions and has also made an endorsement to that effect. There is no representation for respondent.

5. Courts below have arrived at a finding of conviction primarily on the following reasoning:

- (i) Though the petitioner/accused has contended that Ex.P1, cheque was given as security, that he has paid the full amount due to the respondent/complainant on 03.01.2014 and that the respondent/complainant has failed to return the cheque, he has not chosen to examine himself to prove such contention. Ex.P5 reveals business transactions between the petitioner and complainant. Once the issuance of cheque and signature thereon has been admitted by petitioner, then it is his duty to rebut the presumption against him, which he had failed to do.
- (ii) In Ex.P4, reply notice of petitioner/accused, he has mentioned that the bricks supplied to him was of inferior quality and hence, the same was returned. The contention of petitioner/accused that the complainant has misused the cheques which were given as security and failed to return the cheques upon receipt of entire amount, was negated by Courts below on the reasoning that no document has been produced in support of such

contention.

Reasoning as above and for other reasons, the Courts below convicted the petitioner. This Court finds no reason to interfere with the judgments under challenge.

The Criminal Revision Case shall stand dismissed.

29.11.2016

Index:yes/no
Internet:yes/no
gm

To

- 1.The I Additional Sessions Judge,
Tiruvallur.
- 2.The Judge,
Fast Track Court Magisterial Level,
Tiruvallur.

C.T.SELVAM, J

gm

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