

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2016

CORAM:

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

Crl.R.C.No.1202 of 2016

&

Crl.M.P.Nos.11112 and 11113 of 2016

S. Mahadevan

... Petitioner/Accused

vs.

K.Shanmugam

... Respondent/Complainant

Criminal Revision filed under Section 397 and 401 Cr.P.C. against the order passed by the District and Session Judge, Tiruvallur in C.A.No.35/2016 date 24.08.2016 confirming the conviction and modifying the sentence passed in the judgement in STC No.425/2014 dated 15.04.2016 by the Judicial Magistrate, Fast Track Court, Ambattur.

For Petitioner : Mr.S.Swamidoss Manokaran

For Respondent : Mr.R.Karunakaran

ORDER

This revision is preferred against the judgement passed by the District and Session Judge, Tiruvallur in C.A.No.35/2016 confirming the conviction and modifying the sentence passed in the judgement in STC No.425/2014 dated 15.04.2016 of learned Judicial Magistrate, Fast Track Court, Ambattur.

2. Petitioner/accused borrowed a sum of Rs.40,00,000/- from the respondent/complainant and towards discharge of the said amount issued four cheques bearing nos.996687,996688,996689,996690 dated 07.03.2014 each for Rs.10,00,000/- drawn on State Bank of India, Avadi branch, Chennai. Respondent presented the cheques on 03.04.2014 in his account held with the Indian Overseas Bank, Nolambur branch,

Chennai and all the four cheques were returned on 04.04.2014 with endorsement "funds insufficient". Respondent issued statutory notice dated 10.03.2014 which was received by the petitioner on 17.04.2014, but failed to repay the respondent and hence the respondent preferred a complaint before the trial court.

3. Before the trial Court, the respondent examined himself and marked four exhibits, Ex.1 being series of 4 cheques and the petitioner did not examine any witness but marked four exhibits.

4. On examination of materials before it, the trial Court found the charge proved and convicted the petitioner for offence u/s. 138 pf the Negotiable Instruments Act, and sentenced him to undergo 6 months S.I and to pay compensation of Rs.40,00,000/- u/s. 357(3) Cr.P.C on 15.04.2016. There against, petitioner/accused preferred C.A.No.35 of 2016 on the file of learned District and Sessions Judge, Thiruvallur, whilst confirming the conviction modified the sentence of imprisonment to one of 3 months of S.I and confirmed the award of compensation under judgement dated 24.08.2016. Hence, this revision.

5. It is admitted case that the cheques giving rise to the action was issued by the petitioner to the respondent towards repayment of sale consideration receipt since the sale deed executed by the petitioner in favour of the respondent was found to be defective.

6. Learned counsel for respondent submitted that the petitioner had executed a sale deed in favour of the respondent despite having earlier executed sale a deed in respect of the same property in favour of another.

7. In the circumstances, we find no merits in the submission of learned counsel for petitioner that onus lies heavily upon the respondent complainant to prove the debt and that he had means to effect payment of the cheque amounts to the petitioner.

The Criminal revision petition is dismissed. Connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

To

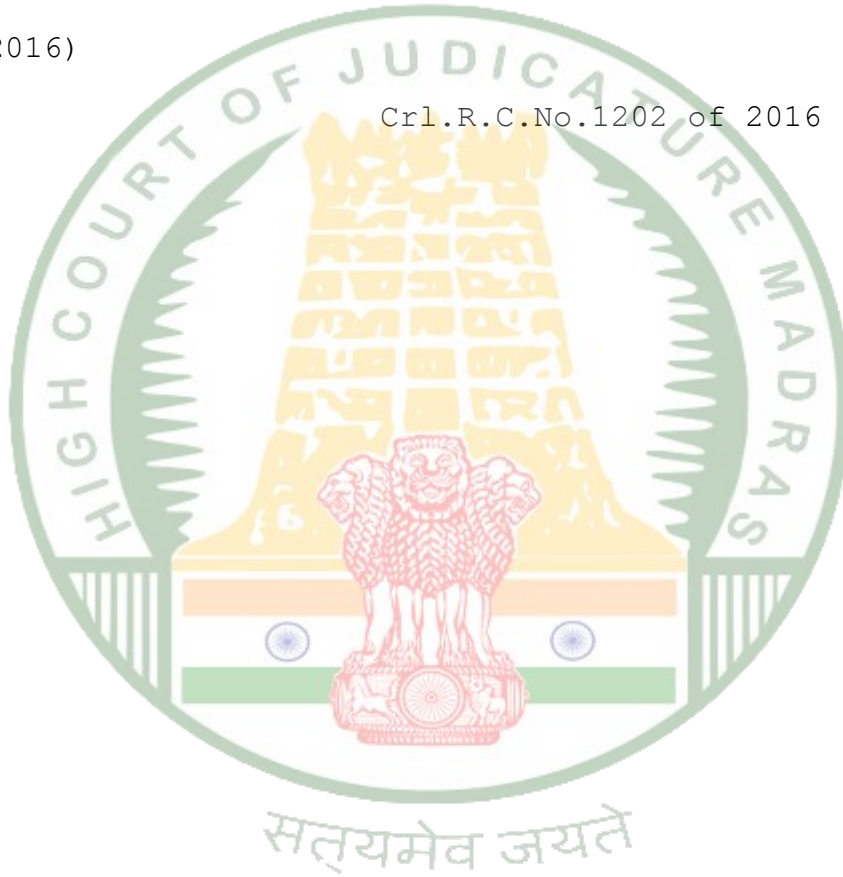
1.The District and Session Judge, Tiruvallur

2. The Judicial Magistrate,
Fast Track Court,
Ambattur.

3 Do Thro The Chief Judicial Magistrate,
Thiruvallur

vgi(CO)
md(22/12/2016)

Cr1.R.C.No.1202 of 2016



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