

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 5.10.2016
(Orders Reserved on : 14.07.2016)

Coram

THE HONOURABLE MR. JUSTICE G. CHOCKALINGAM
Cr1.R.C.No.620 of 2016

P. Shanmugavel

.. Petitioner/Complainant

Vs.

G. Gunasekaran

... Respondent/Accused

Prayer :- Criminal Revision Petition filed under Sections 397, 401 and 386 (II) of Cr.P.C. to enhance the conviction and sentence passed by the learned Judicial Magistrate No.1, Cuddalore, on 01.04.2015, in C.C.No.20 of 2013 for the offence under Section 138 of the Negotiable Instruments Act.

For Petitioner : Mr.C.D.Johnson

For Respondent : Mr.R.Silambarasan

ORDER

This criminal revision case is directed against the order passed by the learned Judicial Magistrate No.I, Cuddalore, in CC.No.20 of 2013, dated 01.04.2015.

2. In this case, the revision petitioner has filed a complaint under Section 138 of the Negotiable Instruments Act before the learned Judicial Magistrate No.I, Cuddalore, and the case was taken on file as C.C.No.20 of 2013 and the trial Court, after perusal and analysing of evidence adduced, finally passed a judgment convicting the accused for the offence under Section 138 of the Negotiable Instruments Act and sentencing him to undergo simple imprisonment for three months and to pay a fine of Rs.1,000/- in default, to undergo simple imprisonment for 15 days under Section 255(2) of Cr.P.C. As against the said conviction and sentence passed by the learned Judicial Magistrate No.I, Cuddalore, the present criminal revision case is preferred by the revision petitioner/complainant for enhancement of sentence.

3. The main contention of the learned counsel for the revision petitioner is that the Court below has failed to note the fact that the cheque amount in this case is a sum of Rs.4,50,000/-, however, the learned Judicial Magistrate, without considering the cheque amount, imposed a flea bite sentence and also failed to pass any order of compensation to the revision

petitioner. Hence, the learned counsel prayed that the criminal revision case has to be allowed and the conviction and sentence has to be enhanced.

4. Heard the learned counsel for the respondent and perused the records.

5. In this case, it is useful to refer Sections 372 and 374 of Cr.P.C. which read as follows:-

"372. No appeal to lie unless otherwise provided

- No appeal shall lie from any judgment or order of a Criminal Court except as provided for by this Code or by any other law for the time being in force.

[Provided that the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.]

Amendment Act, 2008 - Clause 29 amends Section 372 of the Code relating to appeals from judgment or order of a Criminal Court it gives to the victim the right to prefer an appeal against any adverse order passed by the trial Court (Notes on Clauses).

374. Appeals from convictions - (1) Any person convicted on a trial held by a High Court in its extraordinary original criminal jurisdiction may appeal to the Supreme Court.

(2) Any person convicted on a trial held by a Sessions Judge or an Additional Sessions Judge or on a trial held by any other Court in which a sentence of imprisonment for more than seven years has been passed against him or against any other person convicted at the same trial; may appeal to the High Court.

(3) Save as otherwise provided in sub-section (2), any person,-

(a) convicted on a trial held by a Metropolitan Magistrate or Assistant Sessions Judge or Magistrate of the first class or of the second class, or

(b) sentenced under section 325, or

(c) in respect of whom an order has been made or a sentence has been passed under section 360 by any Magistrate, may appeal to the Court of Session."

6. In view of the above said provisions, this criminal revision case is not at all maintainable before this Court and hence, the same is liable to be dismissed.

7. In the result, this Criminal Revision Case is dismissed, with liberty to the petitioner to prefer an appeal before the competent Court, according to law.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Jr1

To

1.The Judicial Magistrate No.I,
Cuddalore.

2.Do Thro The Chief Judicial Magistrate
Cuddalore

copy to
The Section Officer
Criminal Section
High Court Madras

+1 cc to M/s.C.D.Johnson Advocate sr 57688

+1 cc to M/s.R.silambarasan Advocate sr 57665

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