

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.01.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.R.C.Nos.83, 87 and 88 of 2016
and

Crl.M.P.Nos.629, 628,642, 643, 644 and 645 of 2016

B.Narasimhaiah @ Narasimma Babu
S/o.Late Bekkiliappa ..Petitioner in all revisions/
Accused

vs.

V.Sivanna
S/o.Venkatramanappa ..Respondent in Crl.R.C.No.83/2016/
Complainant

G.Prabakar Reddy
S/o.Late Goopalli Reddy ..Respondent in Crl.R.C.No.87/2016/
Complainant

V.Krishna
S/o.Venkatramanappa ..Respondent in Crl.R.C.No.88/2016/
Complainant

Criminal Revisions filed under sections 397 and 401 of Criminal Procedure Code against the judgments of learned Principal Sessions Judge, Krishnagiri, passed in (i) C.A.No.72 of 2012 on 06.03.2013 confirming the judgment of learned Judicial Magistrate, Fast Track Court, Hosur, passed in S.T.C.No.153 of 2011 on 22.11.2012 (ii) C.A.No.63 of 2012 on 06.03.2013 confirming the judgment of learned Judicial Magistrate, Fast Track Court, Hosur, passed in S.T.C.No.15 of 2011 on 27.09.2012 and (iii) C.A.No.73 of 2012 on 06.03.2013 confirming the judgment of learned Judicial Magistrate, Fast Track Court, Hosur, passed in S.T.C.No.155 of 2011 on 22.11.2012.

For Petitioner : Mr.A.Balamurugan
For Respondents: Mr.V.Sakkarapani

C O M M O N O R D E R

These revisions arise against concurrent judgments of Courts below convicting the petitioner for offence u/s.138 of the Negotiable Instruments Act and sentencing him to 6 months S.I. and directing him to pay compensation in a sum of Rs.5,10,000/- i/d 1 month S.I. in each case.

2. Petitioner/accused borrowed a sum of Rs.5,00,000/- from each of the respondents for his business purposes and issued post-dated cheques dated 15.12.2010, 07.02.2011 and 07.02.2011. On presentation of cheques and return thereof unpaid for the reason 'Account Closed', the complainants caused statutory notice, followed the procedure envisaged under section 138 of the Negotiable Instruments Act and preferred complaints. The cases were tried in S.T.C.Nos.153, 15 and 155 of 2011 on the file of learned Judicial Magistrate, Fast Track Court, Hosur.

3. Details of witnesses examined and exhibits marked are as follows:

Case Number	No. of witnesses		No. of exhibits	
	Complainant side	Defence side	Complainant side	Defence side
S.T.C.No.153 of 2011	1	2	10	2
S.T.C.No.15 of 2011	1	1	6	2
S.T.C.No.155 of 2011	1	2	8	2

On appreciation of materials before it, the trial Court, under judgments dated 22.11.2012, 27.09.2012 and 22.11.2012 convicted the petitioner for offence u/s.138 of the Negotiable Instruments Act, sentenced him to 6 months S.I. and directed him to pay compensation in a sum of Rs.5,10,000/- i/d 1 month S.I. in each case. There against, petitioner preferred C.A.Nos.72, 63 and 73 of 2012 on the file of learned Principal Sessions Judge, Krishnagiri, which came to be dismissed under judgments dated 06.03.2013. Hence, these revisions.

4. Heard learned counsel for petitioner and learned counsel for respondents.

5. In arriving at findings of conviction, Courts below found that though it is the defence version that cheques which had been obtained through use of force and threat were misused, petitioner/accused has not chosen to file any police complaint or cause legal notice to the complainants. Once the instrument and signature has not been denied by petitioner/accused, then it is his duty to rebut the presumption u/s.139 of the Negotiable Instruments Act. Petitioner/accused initially has deposed to having lost his cheque book and preferred a complaint before Bagalur Police Station. In cross, he has stated that he had preferred a complaint before Hudco Police Station and Exs.D1 and D2 were issued by such police. Courts below have held that the respondents have proved their cases and accordingly, convicted the petitioner/accused. In the circumstances of the case, this

Court would concur with the findings of Courts below as the petitioner has failed to rebut the initial presumption which arises against him under Section 139 of the Negotiable Instruments Act.

Considering the submission of learned counsel for petitioner that in the event of this Court confirming the finding of Courts below, some leniency on the question of sentence may be shown, this Court, while dismissing the revisions, orders as follows:

- (i) the finding of conviction and sentence of 6 months S.I. in each case is confirmed.
 - (ii) the substantive sentence in all three cases shall run concurrently.
 - (iii) compensation in a sum of Rs.5,10,000/- i/d 1 month S.I. in each case, directed by trial Court shall stand confirmed. The default sentence in each case shall run separately.
- Consequently, connected miscellaneous petitions are closed.

gm

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Principal Sessions Judge,
Krishnagiri.
2. The Judicial Magistrate,
Fast Track Court, Hosur
3. -do- Through The Chief Judicial Magistrate,
Krishnagiri District.
4. The Superintendent Central Prison, Vellore.
5. The Public Prosecutor, High Court, Madras.

+ 3 ccs to M/s. A. Bala Murugan, Advocate SR.4091, 4092, & 4093

CrI.R.C.No.83, 87 and 88 of 2016
and
CrI.M.P.No.652 of 2016

UG(CO)
Eu 11.03.16