

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2016

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

Crl.O.P.No.27136 of 2016

And

Crl.M.P.No.13728 of 2016

Vijayakumar

... Petitioner

Vs.

Thangaraj

... Respondent

Prayer:

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to set aside the dated 24.11.2016 made in C.M.P.No.177 of 2016 in C.A.No.39 of 2016 on the file of the Learned I Additional District and Sessions Judge, Erode.

For Petitioner : Mr.M.Guruprasad

O R D E R

The present Criminal Original Petition has been filed seeking to set aside the order dated 24.11.2016 made in C.M.P.No.177 of 2016 in C.A.No.39 of 2016 on the file of the Learned I Additional District and Sessions Judge, Erode.

2.The petitioner herein is alleged to have borrowed a sum of Rs.4,00,000/- on 17.12.2012 as loan from the respondent herein for business purposes and to discharge the said liability, on the same day the petitioner had issued a post dated Cheque drawn from the Karur Vysya Bank, Sampath Nagar, Erode bearing no.515190 dated 18.02.2013 for Rs.4,00,000/-. The said cheque, when presented by the respondent before the Punjab National Bank, Erode Branch on 18.02.2013 was dishonored for the reason "opening balance insufficient" on 19.02.2013. Hence, the respondent issued a legal notice on 04.03.2013 and the same was served on the petitioner on 06.03.2013, but the petitioner neither issued a reply to the 138 (b) notice nor paid the amount. Hence, the respondent preferred a complaint before the learned Judicial Magistrate (FTC No.I), Erode and the same was taken on file in S.T.C.No.260 of 2013.

3.The respondent/ complainant, in support of his case, examined himself as P.W.1 and marked Exhibits Ex.P1 to Ex.P4. The petitioner examined three witnesses and marked Exhibits Ex.D1 and Ex.D2.

4.After hearing both sides and perusing the materials placed on record, the trial court convicted the petitioner under Section 138 of the Negotiable Instruments Act and sentenced the petitioner to undergo six months Simple Imprisonment and to pay a fine of Rs.5,000/- in default to undergo 15 days Simple Imprisonment.

5.Aggrieved against the same, the petitioner preferred an appeal in C.A.No.39 of 2016 before the learned I Additional Sessions Judge, Erode. When the case was posted for pronouncing judgment, the petitioner filed an application under Section 391 read with 311 of Cr.P.C. to produce additional evidence and the said application was dismissed on the ground that it has been filed only to drag on the case. Aggrieved against the same, the petitioner has filed this petition.

6.Heard. Perused the materials placed on record.

7.From a perusal of the materials placed on record, it is known that the entire evidence was taken, cross examination was over and the case was reserved for pronouncing judgment and in these circumstances, the petitioner has filed the application to produce additional evidence.

8.In the considered opinion of this Court, the application filed at the time when the case was reserved for pronouncing judgment is only to drag on the proceedings and these sort of petitions, despite several opportunities which have not been utilized, cannot be entertained. Hence, this Court finds no illegality or infirmity in the order dated 24.11.2016 passed by the learned I Additional District and Sessions Judge, Erode, which warrants interference.

9.Accordingly, this criminal original petition is dismissed. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

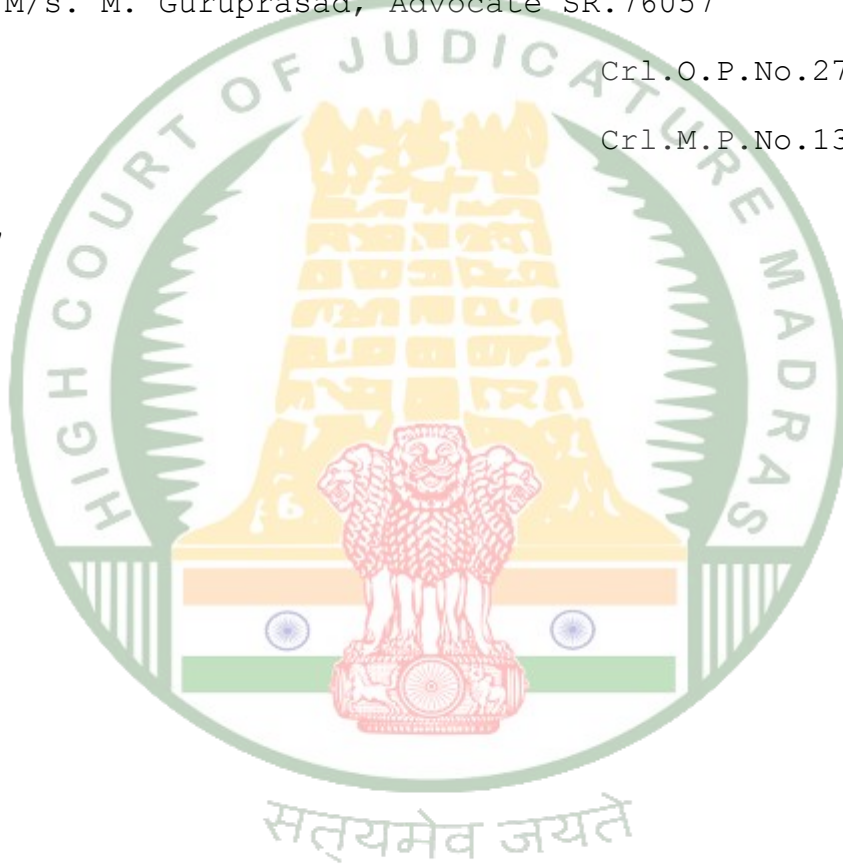
1.The I Additional District and Sessions Judge,
Erode.

2.The Public Prosecutor,
High Court, Madras.

+ 1 cc to M/s. M. Guruprasad, Advocate SR.76057

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