



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.04.2016

CORAM

THE HONOURABLE MR.JUSTICE V.S. RAVI

Cr1.R.C.(MD).No.39 of 2015

K.Chandrasekaran

... Revision Petitioner/
Appellant/Accused

Vs.

Sri Parkunan

... Respondent/
Respondent/Complainant

PRAYER : Criminal Revision Case is filed under Sections 397 r/w 401 of Cr.P.C, to call for the records and to set aside the Judgment delivered in C.A.No.39 of 2014 dated 24.07.2014 on the file of the learned I Additional District Judge(PCR), Tiruchirappalli, confirming the Judgment passed in S.T.C.No.8 of 2013, dated 21.04.2014 on the file of the learned Judicial Magistrate, Manapparai and to pass such further order as this Court may deem fit and proper in the circumstances of the case.

For petitioner : Mr. J.M.Abdul Rahman,
Legal Aid Advocate

For respondents : Mr.T.Vadivelan, Advocate

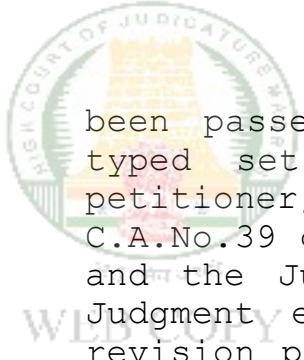
Order Reserved on : 04.02.2016

Order Pronounced on : 26.04.2016

O R D E R

This revision petition has been filed by the revision petitioner/appellant/accused to call for the records and to set aside the Judgment delivered in C.A.No.39 of 2014 dated 24.07.2014 on the file of the learned I Additional District Judge(PCR), Tiruchirappalli, confirming the Judgment passed in S.T.C.No.8 of 2013, dated 21.04.2014 on the file of the learned Judicial Magistrate, Manapparai.

2. Originally, S.T.C.No.8 of 2013 has been filed by the complainant/respondent herein on 17.01.2013 and the Judgment has



been passed on 21.04.2014, as per the details enclosed in the typed set of the revision petition, filed by the revision petitioner, along with the revision petition. Thereafter, C.A.No.39 of 2014 has been filed by the revision petitioner herein and the Judgment has been passed on 24.07.2014 and as per the Judgment enclosed with the typed set of papers, filed by the revision petitioner herein. Challenging the said Judgment passed in the said Criminal Appeal, the revision petitioner herein, has filed the present revision petition.

3. Further, in the revision petition itself, the revision petitioner has admitted that in Criminal Appeal No.39 of 2014, the Judgment passed in S.T.C.No.8 of 2013 has been confirmed. However, the main contention of the revision petitioner is that there is no legally enforceable debt or liability for prosecuting the petitioner. Further, it has been admitted by the revision petitioner herein that he is working as a Driver in State Express Transport corporation.

4. The point that arises for consideration in the present Criminal Revision Petition is as follows:-

Whether the present Criminal Revision Petition has to be allowed for the reasons and grounds stated in the Revision Petition?

5. Point:-

In the grounds of revision, the revision petitioner has stated that there is no legally enforceable debt, and hence, the proceedings under Section 138 of Negotiable Instruments Act would not be attracted, as against the revision petitioner herein. However, both the Courts below have clearly held that the complainant/respondent herein has clearly proved that the revision petitioner herein has issued cheque dated 07.12.2012 of H.D.F.C.Bank, Pettavaithalai Branch, Trichy, as per Ex.P.4 and thereafter, P.W.1, namely, the respondent herein has presented the said cheque for encashment through his Banker, Indian Overseas Bank, Manapparai Branch on 12.12.2012 and the same has been returned as "funds Insufficient" and thereafter, the respondent herein has issued statutory notice on 22.12.2012 to the revision petitioner herein.

6. Further, it has been categorically observed by the Appellate Court that the revision petitioner herein is trying by all means to escape from clutches of law and the conduct of the revision petitioner herein is not genuine and the defence taken by the revision petitioner herein, has no force and the respondent herein has proved his averments made in the Complaint, by producing Ex.P.1 to Ex.P.9 and also, examined himself as P.W.1, to establish the details pointed out in the said Complaint.



7. Further, it is rightly observed by the Courts below that the revision petitioner, after knowing fully well that he is not having sufficient funds and issued the cheque, with an intention to cheat the complainant/respondent herein and hence, the act of the revision petitioner herein is liable to be punished under Section 138 of Negotiable Instruments Act. Further, the signatures in the Pro Note and the cheque have been admitted by the revision petitioner herein.

8. Further, the provisions of Section 397 of Cr.P.C., gives the High Court jurisdiction to consider the correctness, legality or propriety of finding, or order and as to the regularity of the proceedings of any subordinate Court. While considering the legality, propriety or the correctness of a finding or a conclusion, normally, the revising Court does not dwell at length upon the facts and evidence of the case. The Court in revision considers the materials only to satisfy itself about the correctness, legality and propriety of the findings, or order.

9. Further, this Court finds no illegality, impropriety or jurisdictional error in the impugned order under challenge. Further, the order impugned indicates the proper application of mind on the facts or the pleas raised before the Courts below. The reasons, are clearly indicated in the impugned order, and also, it is true that it may depend upon the nature of the matter which is being dealt with by the Court. Further, it is seen that the Courts below have passed impugned order in an appropriate way, and also, in accordance with law. Further, the Courts below have examined the records for the purpose of satisfying itself about legality, propriety and correctness of the order passed and also about the regularity of the proceedings.

10. On a careful scrutiny of the entire records, it is found that the Courts below have passed impugned order, after taking into consideration all the relevant facts and circumstances in proper manner, which does not warrant interference in this revision case and the Revision Petition is dismissed. Thus, the point is answered, as against the revision petitioner herein.

11. ***In the result,*** this Criminal Revision Case is dismissed, and Judgment delivered in C.A.No.39 of 2014 dated 24.07.2014 on the file of the learned I Additional District Judge (PCR), Tiruchirappalli, confirming the Judgment passed in S.T.C.No.8 of 2013, dated 21.04.2014 on the file of the learned Judicial Magistrate, Manapparai, is confirmed.

Sd/-

Assistant Registrar(AS)



To:

1. The I Additional District Judge (PCR),
Tiruchirappalli.

2. The Judicial Magistrate,
Manapparai.

Copy To:

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court, Madurai.

+one cc to M/s.Abdul Rahman, Advocate in SR.NO.23822

+one cc to M/s.T.Vadivelan, Advocate in SR.No.23781

pmu

CSL/SKS-RR/03.05.2016 :4P/6C

Cr1.R.C. (MD) .No.39 of 2015
26.04.2016