THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL REVISION CASE No.85 OF 2005

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, is filed by the petitioner/*de facto* complainant challenging the judgment, dated 9.1.1998, in C.C.No.118 of 1995 on the file of the I Additional Munsif Magistrate, Tenali whereunder and whereby, respondent Nos.2 to 4/A-1 to A-3 were found not guilty of the offences under Section 138 and 142 of the Negotiable Instruments Act, 1881 (for short, "the Act") and Section 420 I.P.C. and accordingly, acquitted under Section 248(1) Cr.P.C.

2. The brief facts of the case are as follows:

Respondent No.3 was indebted to the petitioner to a tune of Rs.8,82,775/-. On 29.11.1994, respondent No.3 issued a cheque to the petitioner for Rs.1,60,000/- towards part payment of the debt amount and when the same was presented in the bank for encashment, it was dishonoured on the ground of insufficient funds. The petitioner made a private complaint before the learned Magistrate and the same was referred to the police for investigation. The Investigating Officer, after completion of investigation, filed charge sheet for the offences under Sections 138 and 142 of the Negotiable Instruments Act and Section 420 I.P.C.

3. The learned trial Court, after considering the evidence adduced by the witnesses and after elaborate discussion, acquitted respondent Nos.2 to 4. Challenging the said judgment, the petitioner filed this Criminal Revision Case.

4. Heard and perused the material available on record.

5. The Revision Case is liable to be dismissed for the following grounds:

1) Even as per the complaint, respondent No.3/A-2 is the person, who issued the cheque in question to the petitioner. Hence, the complaint is maintainable only against A-2 for the offence under Section 138 of the Act 2) As far respondent Nos.2 and 4/A-1 and A-3 are concerned, there is no whisper about any allegation against them for the offence under Section 138 of the Act 3) Taking cognizance of the case for the offence under Section 138 of the Act does not arise as the complaint is barred by limitation in view of the delay in lodging the complaint by the petitioner and 4) according to the petitioner, the allegation to attract the offence under Section 420 I.P.C. is that without there being any sufficient money, A-2 issued the cheque to her.

6. Even admitting for a moment that A-2 committed the offence under Section 420 I.P.C., there is no allegation against A-1 and A-3 that they induced A-2 and on their inducement, the petitioner was cheated by A-2. Hence, they cannot be prosecuted for the offence under Section 420 I.P.C. also. As far as A-2 is concerned, there is no evidence on record to show that with an intention to deceive the petitioner from the inception, he made her to do or omit to do some acts. Hence, this Court is of the view that the impugned judgment was passed in accordance with law and the same does not warrant interference of this Court, and the revision fails and is liable to be dismissed.

7. In the result, the Criminal Revision Case is dismissed confirming the judgment, dated 9.1.1998, in C.C.No.118 of 1995 on the file of the I Additional Munsif Magistrate, Tenali.

8. Miscellaneous petitions pending, if any, in this Criminal Revision Case shall stand closed.

JUSTICE RAJA ELANGO

5.8.2016

AMD

THE HONOURABLE SRI JUSTICE RAJA ELANGO

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Date: 5.8.2016

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