

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2017

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.157 of 2017

and

Crl.M.P.Nos.1788 and 1789 of 2017

A.Vellai Thevan
S/o.Annamalai

.. Petitioner

Vs.

R.Mahendran
S/o.Ramasamy

.. Respondent

Criminal Revision filed under Sections 397 and 401 Cr.P.C. against the judgment of learned III Additional Sessions Judge, Vellore, Thiruppathur, Vellore District, passed in Crl.A.No.17 of 2015 on 04.01.2017 confirming the judgment of learned Judicial Magistrate I, Thiruppathur, Vellore District, passed in C.C.No.131 of 2012 on 23.04.2015.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mr.PA.Sudesh Kumar

ORDER

This Court has reserved orders in this revision on 01.03.2017. Today, the matter is listed under the caption 'for orders'.

2. This revision arises against two 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.7,00,000/- within three months.

3. Respondent/complainant moved a prosecution informing that petitioner/accused borrowed a sum of Rs.7,00,000/- from him and towards repayment thereof, cheque bearing No.526146 dated 10.02.2012 drawn on Indian Bank, Gandhipettai Branch, Tirupattur, stood issued to him, which upon presentation was returned unpaid for the reason "insufficient funds". Respondent/ complainant caused statutory notice and following the procedure envisaged under Section 138 of the Negotiable Instruments Act, a complaint had been filed.

4. Before the trial Court, respondent/complainant examined himself and marked four exhibits. Petitioner/accused examined one witness and marked

one exhibit.

5. On appreciation of materials before it, trial Court, under judgment dated 23.04.2015, convicted petitioner and sentenced him to 6 months S.I. and directed him to pay compensation in a sum of Rs.7,00,000/- within three months. The appeal preferred by petitioner in C.A.No.17 of 2015 on the file of learned III Additional Sessions Judge, Vellore, Tirupattur, came to be dismissed under judgment dated 04.01.2017. Hence, this revision.

6. Heard learned counsel for petitioner and learned counsel for respondent. Perused the materials on record.

7. In convicting the petitioner, Courts below have found that petitioner/accused has not disputed issuance of cheque and the signature found therein. Though petitioner/accused has marked Ex.D1 - certified copy of Power of Attorney Deed dated 10.12.2007 alleged to have been executed by one Sundaram, Anbazhagan and Pushpa in favour of complainant to prove that the Ex.P1 - cheque was issued towards security for the loan obtained by aforesaid persons, petitioner/accused has not produced any oral evidence to prove the nexus between Ex.P1 - cheque and Ex.D1- Power of Attorney. Further, Ex.D1 is of date 10.12.2007 and Ex.P1 is of date 10.02.2012. On the above reasoning, Courts below have found that respondent/complainant has

made out his case and petitioner/accused has failed to rebut the presumption

C.T. SELVAM, J

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under section 139 of the Negotiable Instruments Act and accordingly, arrived at a finding of conviction. This Court finds no error in the judgments under challenge.

The Criminal Revision Case shall stand dismissed. Petitioner shall now be taken into custody towards serving the remaining portion of the sentence yet to be undergone by him. Connected miscellaneous petitions are closed.

20.03.2017

Index: Yes/No
Internet: Yes
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To

1.The III Additional Sessions Judge,
Vellore, Thiruppathur,
Vellore District.

2.The Judicial Magistrate I,
Thiruppathur,
Vellore District.

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