

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2017

C O R A M

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.RC.No.1167 of 2011
and
MP.Nos. 2 & 3 of 2011

Arivazhagan ... Revision Petitioner / Appellant

-vs-

C.Mohan
 Represented by
 General Power of Attorney Holder
 D.Raja ... Respondent/Complainant

Criminal Revision filed under Section 397 & 401 of the Code of Criminal Procedure, praying to set aside the judgment dated 14.02.2011 made in C.A.No.66 of 2006 on the file of the learned Additional Sessions Judge, Krishnagiri in confirming the judgment dated 06.09.2006 made in C.C.No.213 of 2005 on the file of the learned Judicial Magistrate II, Hosur.

For Petitioner : No appearance

For Respondent : No Appearance

ORDER

This Criminal Revision Case arises against two concurrent findings of conviction for offence under Section 138 of Negotiable Instruments Act, vide judgment dated 14.02.2011 made in C.A.No.66

of 2006 on the file of the learned Additional Sessions Judge, Krishnagiri in confirming the judgment dated 06.09.2006 made in C.C.No.213 of 2005 on the file of the learned Judicial Magistrate II, Hosur.

2. The prosecution case is that on 20.02.2004, the accused has borrowed a sum of Rs.4,00,000/- from the respondent/complainant and for that, he had issued post dated cheque bearing no.213321, Canara Bank, Hosur. While presenting the cheque for encashment, the same was returned as "Insufficient Funds". Hence, the complaint.

3. There is no representation for the petitioner. Perused the records.

4. A perusal of papers reveals that in rendering a finding of conviction, lower Appellate Court has concurred with the trial Court's finding of holding against the petitioner/accused in not calling for examination of cheque in question by an expert and also on the aspect of the cheque bearing the signature of the petitioner/accused. It has reasoned that the complaint preferred by the petitioner to the police regards that the cheque having been stolen, has been preferred after receipt of the statutory notice under Section 138 of Negotiable Instruments Act.

5. The contention of the petitioner that the cheque was kept in the house of the petitioner so as to enable easy access and stealing thereof is not believable. On such reasoning and finding that the procedure under Section 138 of Negotiable Instruments Act has been duly complied with, Court below has dismissed C.A.No.66 of 2006.

6. This Court finds no reason to interfere with the judgments under challenge.

7. The Criminal Revision Case is dismissed. Consequently, connected miscellaneous petitions are closed.

22.08.2017

Index: Yes / No

Internet: Yes

kmi

To

1.The Additional Sessions Judge,
Krishnagiri.

2.The Judicial Magistrate-II,
Hosur.

C.T.SELVAM, J

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