

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.08.2017

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.RC.No.1230 of 2010

Sasikaladevi ... Petitioner/Appellant/Accused

Vs

Rajendiran ...Respondent/Respondent/Complainant

PRAYER: Criminal Revision Petition filed under Section 397 and 401 of Criminal Procedure Code praying to allow the revision and set aside the judgement of the Additional District Sessions Judge, FTC No.1, Tindivanam made in Crl.Appeal No.37 of 2009 dated 15.11.2010 and modifying the Judgement and confirm the compensation passed by the Additional District Munsif Court, Gingee in S.T.C.No.16 of 2007 dated 10.11.2009.

For Petitioner : No appearance

For Respondent : No appearance

ORDER

This Criminal Revision has been filed against the judgment of learned Additional District Sessions Judge, FTC No.1, Tindivanam made in Crl.Appeal No.37 of 2009 dated 15.11.2010.

2. There has been no representation for either side on the past two hearing dates, as also today. This Court proceeds to pass orders on perusal of records.

3. Respondent/complainant moved a prosecution informing that on 17.09.2004 petitioner/Accused borrowed a sum of Rs.55,000/- and on 05.10.2004 the petitioner/accused issued a cheque drawn on ICICI Bank, Cuddalore Branch, towards repayment of borrowing, which upon presentation, returned unpaid for the reason 'insufficient funds'. Respondent/complainant, following the procedures envisaged u/s.138 of the Negotiable Instruments Act, preferred a complaint. The complaint was taken on file in C.C.No.32 of 2005 on the file of learned Judicial Magistrate, Gingee. Upon committal, the case was transferred to the learned Additional District & Sessions Judge, Gingee in S.T.C.No.16 of 2007.

4. Before trial Court, respondent/complainant examined himself as PW-1 and marked 5 exhibits. On the side of defence, 4 witnesses were examined and 5 exhibits were marked. On appreciation of materials before it, trial Court, under judgment dated 10.11.2009, rendered a finding of conviction and sentenced petitioner/Accused to 3 months S.I. and fine of Rs.55,000/- as compensation, i/d 15 days S.I. There against, petitioner/Accused preferred CrI.A.No.37 of 2009 on the file of learned Additional District & Sessions Judge, Tindivanam and the trial Court's conviction and sentence for 3 months S.I. and the payment of compensation of Rs.55,000/- towards complainant and granted one month time for payment i.e., by 16.12.2010, was confirmed, one week S.I. Was imposed in default of payment of compensation, under judgment dated 15.11.2010. Hence, this revision.

5. In convicting petitioner/Accused, Courts below have found that:-

I. legal notice dated 13.12.2004 was issued by complainant to accused. On 27.12.2004 complainant received back the returned legal notice and thereafter, accused failed to make payment to complainant within 15 days. Therefore, cause of action arose for non payment of money within 15 days. After that, on 11.2.2005 complainant filed the written complaint against accused before learned Judicial Magistrate, Gingee.

II. Accused has taken defence that on 5.7.2004, she issued 3 blank cheques to the wife of the complainant viz., Mailammal. The said defence cannot be considered, since Ex.A1 cheque bears complainant's name with date of 5.10.2004. She failed to prove that on 5.7.2004, the blank signed cheque has been drawn in favour of the wife of the complainant.

III. The evidence of Dws-1 to 4 have been considered by the Courts below in proper perspective while convicting the appellant.

6. Hence, this Court finds no reason to interfere with the judgments under challenge.

7. The Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar

//True copy//

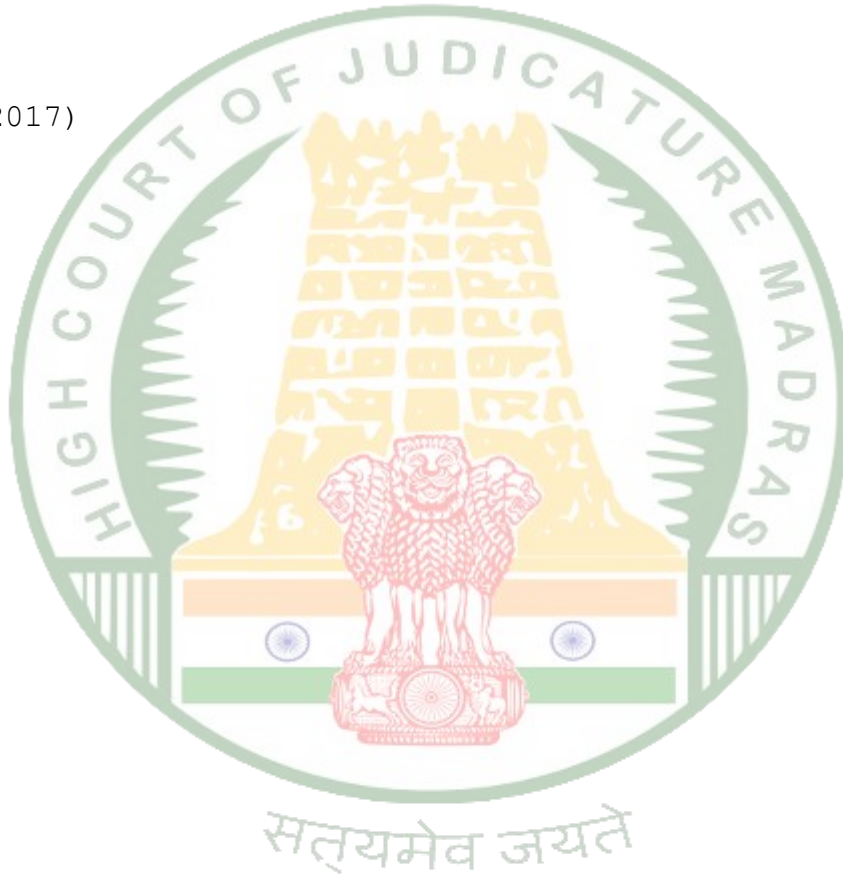
Sub Assistant Registrar

To

1. The Additional District Sessions Judge,
FTC No.1, Tindivanam.
2. The Additional District Munsif Court,
Gingee.

Cr1.RC.No.1230 of 2010

PVS (CO)
GN(07/12/2017)



WEB COPY