

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2017

CORAM:

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

Crl.R.C.No.1211 of 2016

and

Crl.M.P.Nos.10898 and 10899 of 2016

S.Santhamoorthy,
M/s.Ever Lead Apparel,
No.20/21-Muthusamy street, Extension,
D.V.Nagar, 2nd Street, Odakadu,
Tiruppur. .. Petitioner/Appellant/Respondent

vs.

M/s.Knitwin Process,
represented by its Partner Ravichandran,
No.1- Pallakadu Thottam,
Karuppugoundan Palayam,
Palladam Road,
Tiruppur. .. Respondent/Respondent/Complainant

Criminal Revision Case filed under Section 397 and 401
Cr.P.C. against the judgment of 1st Additional District and
Sessions Judge, Tiruppur, passed in C.A.No.48 of 2015 on
15.09.2016 confirming the judgment of Fast Track Court,
Tiruppur, passed in S.T.C.No.88 of 2013 on 12.03.2015.

For Petitioner : Mr.K.Myilsamy
For Respondent : Mr.B.Karthikeyan

O R D E R

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 1 year S.I.
and to pay a fine of Rs.1,000/- to the complainant within 1
month i/d 1 month S.I.

2. Respondent moved prosecution informing that the
petitioner borrowed a sum of Rs.5,50,777/- from the complainant
and cheques bearing Nos.073681 for Rs.1,00,000/-, 073682 for
Rs.2,50,000/- and 073683 for Rs.2,50,000/- dated 30.03.2009,

14.04.2009 and 18.04.2009 drawn on The Federal Bank Ltd., Tirupur branch, to discharge the debt for Rs.5,50,777/-, stood issued to him by petitioner towards repayment of debt, which upon presentation was returned unpaid for the reason "insufficient funds". Respondent/complainant caused statutory notice following the procedure envisaged under Section 138 of the Negotiable Instruments Act, a complaint had been filed.

3. Before the trial Court, respondent examined himself and marked twenty three exhibits. No witness was examined on behalf of the defence and one exhibit was marked.

4. On appreciation of materials before it, trial Court, under judgment dated 12.03.2015, convicted petitioner and sentenced him to undergo 1 year S.I. and to pay fine of Rs.1,000/-. There against, petitioner preferred C.A.No.48 of 2015 on the file of I Additional District and Sessions Court, Tiruppur. Appellate Court, under judgment dated 15.09.2016, dismissed the appeal. There against, the present revision has been filed.

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

6. In convicting the petitioner, Courts below have found as follows:

- (i) The complaint discloses existence of legally enforceable debt and the petitioner/accused himself had categorically admitted that they had business dealings with the complainant and the accused himself admitted his signature in the cheque.
- (ii) The evidence of the defence witness reveals that there was error in the share document of the shareholders of the company and hence Ex.P.23 document was prepared, and that there is no dispute with regard to the business transactions and issuance of cheques and the arguments put forth by the defence are not sustainable.
- (iii) As per the law laid down by the Hon'ble Supreme Court in Rangappa vs. Sri Mohan (2010-4 CTC 118) and C.Keshavamurthy vs. H.K.Abdul Zabbar (2013-2 MWN (Cr.) DCC 162 (SC), the defence side has failed to rebut the presumption under Sections 118 and 139 of the Negotiable Instruments Act and the guilt of the accused has been proved beyond reasonable doubt.

On the above reasoning as also for other reasons, Courts below arrived at a finding of conviction. This Court finds no error in the judgments under challenge.

The Criminal Revision Case shall stand dismissed.
Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

bri/sli

To

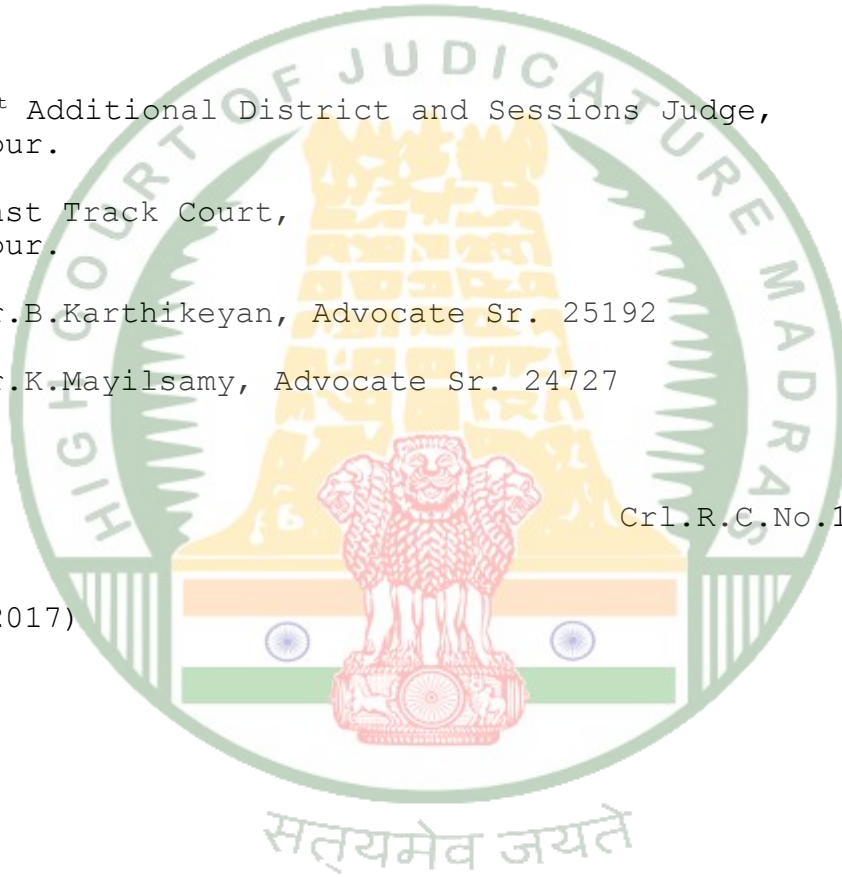
1. The 1st Additional District and Sessions Judge,
Tiruppur.
2. The Fast Track Court,
Tiruppur.

+1cc to Mr.B.Karthikeyan, Advocate Sr. 25192

+1cc to Mr.K.Mayilsamy, Advocate Sr. 24727

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NMI (CO)
VR(06/06/2017)



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