

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.01.2017

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM
Crl.R.C.No.1439 of 2016
and
Crl.M.P.No.12511 of 2016

D.Jesuraj
S/o.Devasagayam

.. Petitioner/Accused

vs.

B.Sarasa
W/o.Benny

.. Respondent/complainant

Criminal Revision filed under Section 397 and 401 Cr.P.C. against the judgment of learned I Additional Sessions Judge, Tiruvallur, passed in C.A.No.53 of 2013 on 27.04.2015 confirming the judgment of Fast Track Court, Magisterial Level, Tiruvallur, passed in C.C.No.280 of 2012 on 22.07.2013.

For Petitioner: Mrs.Manjula Charan
for M/s.Majestic Law Firm

For Respondent: Mrs.Kasthuri Ravichandran

O R D E R

This revision arises against the judgment of learned I Additional Sessions Judge, Tiruvallur, passed in C.A.No.53 of 2013 on 27.04.2015 confirming the judgment of Fast Track Court, Magisterial Level, Tiruvallur, passed in C.C.No.280 of 2012 on 22.07.2013.

2. Respondent/complainant moved a prosecution informing that a cheque bearing No.582183 dated 09.10.2011 drawn on Indian Bank, Pattabiram Branch, in a sum of Rs.1,77,000/-, stood issued to him by petitioner towards repayment of borrowing, which upon presentation was returned unpaid for the reason "payment stopped by drawer and 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.

3. Before the trial Court, the respondent examined two witnesses and marked four exhibits. On the side of defence, three witnesses were examined and four exhibits were marked.

4. On appreciation of materials before it, trial Court, under judgment dated 22.07.2013, convicted petitioner and sentenced him to 6 months S.I. There against, petitioner preferred C.A.No.53 of 2013 on the file of learned I Additional Sessions Judge, Tiruvallur. Appellate Court, under judgment dated 27.04.2015, while confirming the finding of conviction and sentence, directed the petitioner/accused to pay a sum of Rs.1,77,000/- towards compensation to the respondent/complainant i/d 3 months S.I. Hence, this revision.

5. Heard learned counsel for petitioner and learned counsel for respondent.

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

- (i) While it was the case of petitioner/accused that he did not know the respondent, that his friend Pandian threatened him and got three blank cheques on 18.04.2011 and misused the same towards foisting a false case against him and that he has preferred a complaint, it was found that the petitioner/accused has taken different stands on different occasions. On the one hand, the petitioner/accused contended that he is liable to pay Rs.54,000/- to one Benny, husband of respondent and he has given the cheque through one Vijaya. On the other, he contended that he did not know the respondent, wife of Benny. On a careful perusal of the complaint, Courts below have found that the accused was in need of money and through his friend Pandian, he approached Benny, who has given loan in his wife's name and obtained cheques in her name. The very initial presumption available u/s.139 of the Negotiable Instruments Act stands not rebutted.
- (ii) The contention of accused that the cheques were not issued towards discharge of liability has been negated by Court below on the reasoning that, in cross-examination, accused had admitted that he has given the cheques to Pandian in the house of Benny. The contention that the accused had given a complaint against the said Pandian alleging that the cheques had been obtained from him under threat has not been accepted on the ground that it was not substantive evidence to support the case of accused to hold that there was no transaction between him and respondent or her husband.
- (iii) Having issued the cheques towards liability, the accused has given 'stop payment' instruction to the Bank, which clearly revealed that the accused has committed the offence punishable u/s.138 of the Negotiable Instruments Act.

(iv) While finding the judgment of the trial Court was correct insofar as the sentence passed by it, Appellate Court found that no compensation has been awarded to the complainant and accordingly, directed payment of compensation in a sum of Rs.1,77,000/- to the complainant.

This Court finds no error in the judgment under challenge.

The Criminal Revision Case is dismissed. Connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The I Additional Sessions Judge,
Tiruvallur.

2.Do-Thro The Principal Sessions Judge,
Tiruvallur

3.The Fast Track Court,
Magisterial Level,
Tiruvallur.

+1 cc to M/s.Kasthuri Ravichandran Advocate sr 1330

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