

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2017

CORAM:

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

Crl.R.C.No.1456 of 2016
and
Crl.M.P.Nos.12629 & 12630 of 2016

Sivanantham .. Petitioner/Accused

vs.

T.R.Narayanan .. Respondent/Complainant

Criminal Revision filed under Sections 397 and 401 Cr.P.C. against the judgment of learned I Additional Judge, District and Sessions Court, Coimbatore, passed in C.A.No.231 of 2015 on 29.09.2016 confirming the judgment of learned Judicial Magistrate, Magisterial Level - II, Coimbatore passed in C.C.No.12 of 2013 on 09.10.2015.

For Petitioner : Mr.Arumugam
for Mr.K.Sudhakar

For Respondent : No appearance

O R D E R

This revision is preferred against two concurrent judgments of Courts below convicting the petitioner for offence under Section 138 of the Negotiable Instruments Act and sentencing him to undergo 1 year S.I. and directing him to pay a fine of Rs.5,000/- i/d 2 months S.I.

2. Heard Mr.Arumugam, learned counsel for the petitioner.

3. Learned counsel for petitioner submits that the cheque upon which the respondent/complainant has preferred the complaint was issued with regard to earlier transaction and the same, having been issued in blank was not returned by the respondent upon payment of such due and has been used towards foisting a false case against the petitioner. Learned counsel for the petitioner submits that such contention has been raised even by way of reply notice. Learned counsel referring this Court to the typed set and particularly the bank account

statement of petitioner contends that a complaint has been preferred on a cheque drawn on a Kotak Mahindra Bank account of the petitioner bearing cheque No.188. Learned counsel submits that date thereof has been informed as 10.04.2012. Referring to the bank account statement, learned counsel submits that cheque No.184 had been issued by petitioner as early as on 08.02.2010 and even the subsequent cheques such as cheque Nos.190, 192, 194, 195 and 196 had been issued in early 2010 itself.

A perusal of the accounts statement would reveal that even cheque No.313 had been issued in December 2010 itself. Learned counsel contends that the said position supports the case of the petitioner that the cheque issued on an earlier occasion had been wrongly used for foisting a false case.

On consideration of the above submissions, this Court is of the view that towards just appreciation, it would be proper to set aside the Judgment of the lower appellate court and remit the matter for consideration afresh.

Accordingly, this revision shall stand allowed. The judgment of the I Additional Judge, Coimbatore is set aside and the case remitted back to the appellate Court. The appellate Court shall permit the petitioner to lead additional evidence towards marking the bank accounts statement of the petitioner in keeping with section 391 Cr.P.C. Respondent/complainant shall be afforded opportunity of cross examination. Court below shall proceed with the appeal and dispose of the same as expeditiously as possible. Consequently, connected miscellaneous petitions are closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vrc

To

1. The Judicial Magistrate,
Fast Track Court Magisterial Lever-II,
Coimbatore.
2. The I Additional Judge,
Coimbatore.

+ 1 cc to Mr.K. Sudhakar, Advocate Sr.9801

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RJ(CO)
EU 17.3.17



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