

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2017

CORAM:

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

Cr1.R.C.No.346 of 2016

Sanjai Gandhi
S/o.Manickam

.. Petitioner

Vs.

N.Murthy
S/o.Narayanasamy

.. Respondent

Criminal Revision filed under Sections 397 and 401 Cr.P.C. against the judgment of learned II Additional District and Sessions Judge, Salem, passed in C.A.No.94 of 2015 on 17.12.2015 confirming the judgment of learned Judicial Magistrate, Fast Track Court, Omalur, passed in C.C.No.107 of 2013 on 27.06.2014.

For Petitioner : Mr.N.Karthikeyan

For Respondent : Mr.K.Pasupathy

O R D E R

This Court has reserved orders in this revision on 09.11.2016. Thereafter, the matter was listed on four occasions under the caption 'for orders'. On one such occasion, at the request of learned counsel for petitioner, time for payment of Rs.1,50,000/- was extended upto 23.01.2017. Today, when the matter is taken up, it is represented that the petitioner has not effected payment as agreed and hence, this Court proceeds to pass orders on merits.

2. 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 directing him to pay compensation in a sum of Rs.1,50,000/- within a month.

3. Respondent/complainant moved a prosecution informing that petitioner/accused borrowed a sum of Rs.1,50,000/- from him and towards repayment thereof, cheque bearing Nos.049356 and 049357 dated 25.09.2012 drawn on Axis Bank, Omalur Branch, stood issued to him, which upon presentation were returned unpaid for the reason "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.

4. Before the trial Court, respondent/complainant examined himself and marked seven exhibits. None were examined on behalf of the defence nor were any exhibits marked.

5. On appreciation of materials before it, trial Court, under judgment dated 27.06.2014 in C.C.No.107 of 2013, convicted petitioner and sentenced him to 1 year S.I. and directed him to pay compensation in a sum of Rs.1,50,000/- within a month. The appeal preferred by petitioner in C.A.No.94 of 2014 on the file of learned II Additional District and Sessions Judge, Salem, came to be dismissed under judgment dated 17.12.2015. Hence, this revision.

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

7. In convicting the petitioner, Courts below have found that the only ground canvassed on behalf of petitioner/accused was that the wife of the complainant, who is none other than the sister of petitioner/accused, took his cheques without his knowledge and handed over to the complainant, who misused the same towards foisting a false case. Though it was the contention of petitioner that PW-1 has admitted that he has received three cheques from his wife, Courts below have found that in Ex.P7, reply notice, petitioner/accused himself has admitted borrowal of Rs.1,50,000/- from the complainant, undertook to repay the same with 24% interest and issued cheques. Once petitioner/accused himself has admitted the borrowing and issuance of cheque, the contention of petitioner that the wife of complainant took his cheques and handed over the same to the complainant, which was also admitted by complainant, would not be of much consequence inasmuch as the parties are immediate relatives. On the above reasoning, Courts below have found that the complainant has proved his case and accordingly, convicted the petitioner/accused. This Court finds that a well-reasoned approach has been adopted by Courts below in arriving at a

finding of conviction.

The Criminal Revision Case shall stand dismissed. Petitioner shall now be taken into custody towards serving the remaining portion of the sentence yet to be undergone by him.

-s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

gm

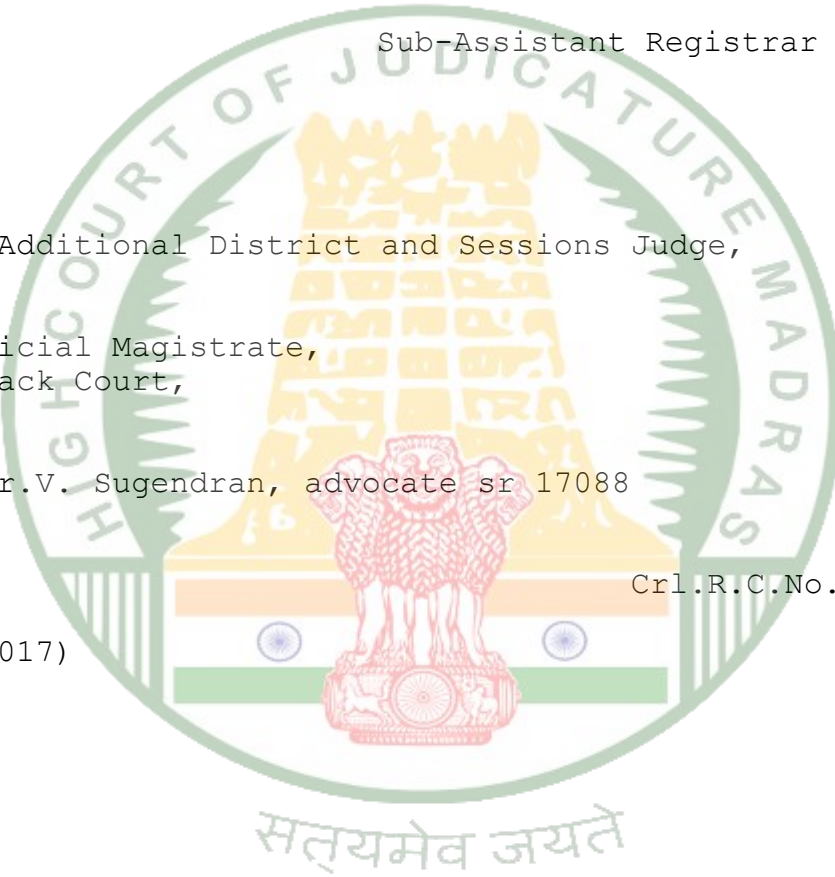
To

1. The II Additional District and Sessions Judge,
Salem.
2. The Judicial Magistrate,
Fast Track Court,
Omalur.

+1 CC to Mr.V. Sugendran, advocate sr 17088

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SP(21/07/2017)



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