

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2017

CORAM:

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

Crl.R.C.No.878 of 2016

S.Ravichandran
S/o.Sengodan

.. Petitioner/Appellant

Vs.

R.Sakthivel
S/o.Ramasamy

... Respondent/complainant

Criminal Revision Case filed under Sections 397 and 401 Cr.P.C. against the judgment of learned Principal Sessions Judge, Namakkal, passed in C.A.No.51 of 2014 on 24.06.2015 confirming the judgment of learned Judicial Magistrate, Fast Track Court, Magistrate Level, Tiruchengode, passed in S.T.C.No.224 of 2013 on 16.07.2014.

For Petitioner : Mr.C.D.Johnson
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 6 months S.I. and fine of Rs.5,000/- i/d 1 month S.I.

2. Respondent/complainant moved a prosecution informing that a cheque bearing No.401049 dated 18.05.2013 in a sum of Rs.10,00,000/- drawn on Punjab National Bank, Kilpauk Branch, Chennai, stood issued to him by petitioner towards repayment of borrowing, which upon presentation was 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.

3. Before the trial Court, the respondent examined two witnesses and marked six exhibits. None were examined on

behalf of defence nor were any exhibits marked. On appreciation of materials before it, trial Court, under judgment dated 16.07.2014, convicted the petitioner and sentenced him to 6 months S.I. and fine of Rs.5,000/- i/d 1 month S.I. There against, petitioner preferred C.A.No.51 of 2014 on the file of learned Principal Sessions Judge, Namakkal, which came to be dismissed under judgment dated 24.06.2015. Hence, this revision.

4. Heard learned counsel for petitioner. There is no representation for respondent.

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

- (i) The contention of accused that he had missed the cheque and the same was stolen and misused by complainant has been rejected on the reasoning that neither in evidence nor in cross-examination, accused had put forth any such question to the complainant. Though the accused has contended that he had preferred a complaint regarding missing of cheque, he has not produced a copy of complaint to substantiate such contention. Further, trial Court has observed that 'if the commercial morality sought to be achieved under section 138 NI Act were to be achieved no account holder having cheque facility can be permitted to deal with his cheque book casually, irresponsibly, playfully or frivolously.'
 - (ii) The defence of loss of a blank cheque was taken belatedly and the accused had mentioned different date in the 'stop payment' instructions to his bank. Further, while instructing 'stop payment', accused had not mentioned that the cheque had been lost.
 - (iii) No reply has been caused to the statutory notice.
- For the aforesaid reasons and for other reasons, the 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.

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

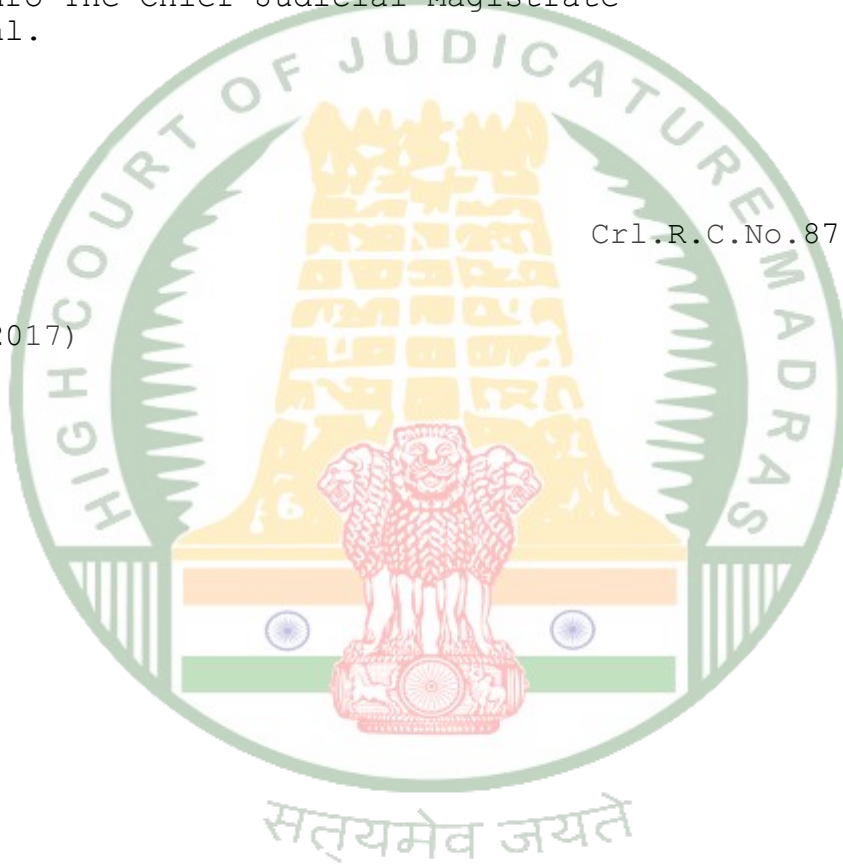
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To

1. The Principal Sessions Judge,
Namakkal.
2. The Judicial Magistrate,
Fast Track Court,
Magistrate Level,
Tiruchengode.
3. -do- thro The Chief Judicial Magistrate
Namakkal.

VGI (CO)
sp(17/07/2017)

CrI.R.C.No.878 of 2016



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