



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.12.2017

CORAM:

THE HONOURABLE MR. JUSTICE A.M.BASHEER AHAMED

Crl.R.C. (MD) No.399 of 2016

and Crl.M.P. (MD) No.4825 of 2016

A.Raju

... Petitioner/Petitioner/Appellant
Vs.

1.A.Krishnakumar

2.State of Tamil Nadu,
Rep.by Public Prosecutor,
Kanyakumari District
at Nagercoil.

... Respondents/Respondents/Respondents

PRAYER: The Petition filed under Section 397 r/w 401 of Cr.P.C. to call for the records and set aside the order passed in Crl.M.P.No.721 of 2015 in C.A.No.30 of 2008 dated 23.04.2016 on the file of the Sessions Judge (Fast Track Mahila Court), Kanyakumari District at Nagercoil against S.T.C.No.2206 of 2005 on the file of the Judicial Magistrate Court, Eraniel, dated 13.02.2008 and to allow this Criminal Revision Petition.

For Petitioner : Mr.Thirumahilmaran

For Respondent

No.2

: Mr.C.Mayilvahana Rajendren, APP.

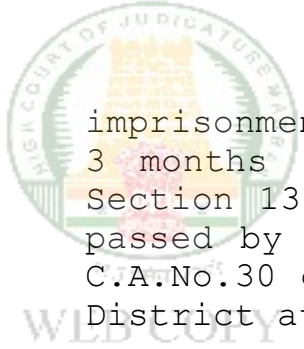
For Respondent No.1 : No Appearance

ORDER

This petition has been filed to set aside the order dated 23.04.2016 passed in Crl.M.P.No.721 of 2015 in C.A.No.30 of 2008 by the Sessions Judge (Fast Track Mahila Court), Kanyakumari District at Nagercoil against the order dated 13.02.2008 in S.T.C.No.2206 of 2005 passed by the Judicial Magistrate Court, Eraniel.

2.The learned counsel for the petitioner is present. Court notice to R1 was served and R1 is called absent today and hence, he is set exparte. The learned Additional Public Prosecutor appearing for R2 is a formal party in this Criminal Revision case since this case relates to Section 138 of N.I. Act filed by the 1st respondent herein.

3.The petitioner herein is arrayed as accused in S.T.C.No.2206 of 2005 on the file of the Judicial Magistrate Court, Eraniel and he was convicted to undergo one year simple



imprisonment and to pay a fine of Rs.5,000/- in default to undergo 3 months simple imprisonment for the offences punishable under Section 138 of N.I. Act. Aggrieved by the judgment of conviction passed by the Trial Court, the petitioner preferred an appeal in C.A.No.30 of 2008 before the learned Sessions Judge, Kanniyakumari District at Nagercoil and it is pending.

4. During the pendency of the appeal before the Appellate Court, the petitioner filed a petition in Crl.M.P.No.721 of 2015 under Section 391 of Cr.P.C. to receive additional documents as mentioned in the petition and to consider the same in the appeal. The Appellate Court has dismissed the said petition. Aggrieved by the order of dismissal, present Criminal Revision Case is preferred by the petitioner herein before this Court.

5. The learned counsel for the petitioner submitted that the petitioner and his wife have filed a suit in O.S.No.458 of 2009 against one A.Asir Raj and one A.Sivakumar before the learned Principal District Munsif Court, Padmanabhapuram and a decree was passed in the said suit on 02.08.2014 by directing the defendants to return the blank signed white paper, salary certificate and 5 signed blank cheques (cheque Nos.726036 to 726040) within a period of 2 months to the plaintiffs. He further submitted that one among the said cheque, ie., cheque No.726038 was misused by the de facto complainant. The case in S.T.C.No.2206 of 2005, it is alleging that the above cheque was given on 18.03.2005 for borrowing a sum of Rs.1,50,000/- by the petitioner herein from the de facto complainant. In order to strengthen the case of the petitioner herein in the pending appeal, the petitioner relied the documents mentioned in Crl.M.P.No.721 of 2015, which was preferred during the pendency of the said appeal.

6. Considering the facts and circumstances of the case and also considering the documents relied on by the petitioner in support of his defence raised in S.T.C.No.2206 of 2005 against which C.A.No.30 of 2008 was preferred before the Appellate Court, this Court is inclined to set aside the order passed by the learned Sessions Judge (Fast Track Mahila Court), Kanniyakumari District at Nagercoil in Crl.M.P.No.721 of 2015 and directed the Sessions Judge to consider the documents filed by the petitioner herein in accordance with law.

7. In the result, this Criminal Revision Case is ordered accordingly. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/



To

1.The Sessions Judge(Fast Track Mahila Court),
Kanyakumari District at Nagercoil.

2.The Judicial Magistrate Court,
Eraniel.

3.The Public Prosecutor,
Kanyakumari District at Nagercoil.

+1cc to Mr.P.THIRUMAHILMARAN Advocate in SR. No. 93094

GNS

JS/KKR/SAR.4/04.01.2018/3P-5C

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