

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2018

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Criminal Revision Case No.1550 of 2017

and

Crl.M.P.No.15582 of 2017

1.K.Mariappan
S/o.Kaliappa Gounder

2.Vanaja
W/o.K.Mariappan

.. Petitioners

Periyasamy
S/o.Markandan

Vs.

.. Respondent

Criminal Revision Case filed under Section 401 r/w 397 of the Code of Criminal Procedure against the judgment of learned Additional District and Sessions Judge, Dharmapuri, passed in C.A.No.13 of 2016 on 21.11.2017.

For Petitioners : Mr.R.Selvakumar

For Respondent : Mr.B.Sundara Pandiyan

ORDER

This revision arises against the judgment of learned Additional District and Sessions Judge, Dharmapuri, passed in C.A.No.13 of 2016 on 21.11.2017.

2. Revision petitioners faced prosecution for offence u/s.138 of the Negotiable Instrument Act in S.T.C.No.121 of 2014 on the file of learned Judicial Magistrate, Fast Track Court, Dharmapuri. Trial Court, under judgment dated 21.10.2016, convicted petitioners and sentenced them to 1 year S.I. and directed each of them to pay Rs.15,00,000/- to the complainant within three months i/d 1 month S.I. Against such finding, petitioners moved C.A.No.13 of 2016 on the file of learned Additional District and Sessions Judge, Dharmapuri. Appellate Court, under judgment dated 21.11.2017, remanded the case for fresh consideration by trial Court informing that the trial Court had failed to frame an issue and answer the question of whether the debt mentioned in the complaint is legally enforceable or not. Challenging such order, the present revision has been filed.

3. Heard learned counsel for petitioners and learned counsel for respondent.

4. This Court is in agreement with learned counsel for petitioners that the question of whether the cheque represents a legally enforceable debt or was time barred could well have been decided by appellate Court on the basis of records available with it.

The Criminal Revision Case shall stand allowed. The judgment of learned Additional District and Sessions Judge, Dharmapuri, passed in C.A.No.13 of 2016 on 21.11.2017, shall stand set aside and the same is restored to the file of appellate Court. Appellate Court shall deal with the same on merits as also decide the question whether the cheque giving rise to the action represents a legally enforceable debt or not. Appellate Court is directed to dispose of the appeal within one month from the date of receipt of this order. Connected miscellaneous petition is closed.

05.01.2018

Note to office:
Issue order copy by 09.01.2018

Index : Yes/No
Internet : Yes
gm
To

The Additional District and Sessions Judge,
Dharmapuri.

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C.T.SELVAM, J

gm



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