



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.685 of 2013
in
M.P.No.1 of 2015

M.C.Thangamuthu ...Petitioner/Respondent

Vs.

C.Manivannan ...Respondent/Petitioner

Prayer:

This Criminal Revision case filed under Section 397 and 401 of Code of Criminal Procedure, to set aside the order dated 23.06.2015 made in C.M.P.No.846 of 2015 in C.C.No.42 of 2012 on the file of the learned Judicial Magistrate, Fast Track Court No.I, Erode.

For Petitioner : Mr.M.Guruprasad

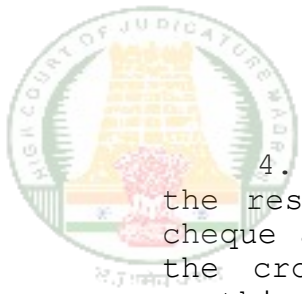
For Respondent : Notice served - No appearance

O R D E R

This Criminal Revision has been filed by the petitioner against the order dated 23.06.2015 passed by the learned Judicial Magistrate, Fast Track Court No.I, Erode in C.M.P.No.846 of 2015 in C.C.No.42 of 2012.

2. The petitioner/complainant filed a private complaint against the respondent/accused under Section 138 of Negotiable Instruments Act before the learned Judicial Magistrate, Fast Track Court No.I, Erode, which was taken on file in C.C.No.42 of 2012. During trial, the petitioner filed a petition in C.M.P.No.846 of 2015 to mark the certain documents. After full fledged trial, the learned Judicial Magistrate allowed the civil miscellaneous petition.

3. Aggrieved against the above said order dated 23.06.2015, the petitioner has preferred this present revision before this Court.



4. The learned counsel for the petitioner would submit that the respondent/accused has admitted the signature found in the cheque and he has not denied the issuance of the cheque. During the cross examination, the respondent/accused has not stated anything about the alteration of the date of cheque and anything about the documents. After completion of Section 313 Cr.P.C. proceedings, at the time of defense evidence, he has filed the petition under Section 315 Cr.P.C. to examine himself as defense witness and the same was allowed. Thereafter, the respondent has been filed an application in C.M.P.No.846 of 2015 to mark the documents. No particular of document has been mentioned in the petition which is to be marked. The documents which is to be marked has been already marked through P.W.1. there is no specific reason to file the petition, only to drag on the proceedings. The learned Magistrate failed to consider all these aspects and allowed the miscellaneous petition filed by the respondent/accused.

5. Heard the learned counsel appearing for the petitioner and none appeared on behalf of the respondent and perused the materials available on record.

6. The case of the petitioner/complainant is that respondent/accused has borrowed a sum of Rs.5,00,000/- from the complainant, for which the petitioner issued two post dated cheques bearing Nos.269777 and 269778 in favour of the petitioner. The petitioner presented the cheque bearing No.269777, dated 30.08.2009 to Bank for encashment and the same was returned as 'Funds insufficient'. Thereafter, the petitioner has sent a notice to the respondent on 17.07.09.2009. But the respondent issued a reply notice on 31.07.2009 with false allegations. After receiving the legal notice, the respondent failed to pay the cheque amount. Hence, the petitioner/complainant filed a private complaint under Section 138 of Negotiable Instruments Act before the learned Judicial Magistrate III, Erode. After completing legal formalities, the complaint was taken on file in C.C.No.42 of 2012. During trial, the respondent/accused filed a petition in C.M.P.No.846 of 2015 seeking to mark the documents.

7. The learned Counsel for the petitioner has submitted that after receipt of legal notice, the respondent has not paid the cheque amount. On a perusal of records, it is seen that the respondent has not raised any question with the complainant during the cross examination and also he has not disputed in 313 proceedings. Since, he has filed a petition before the learned Magistrate only at the time of defence evidence, which clearly shows that only to protract the case, he has filed the petition and the document which is to be marked has been already marked through P.W.1 and the said document need not be marked again



through him.

8. This Court is in agreement with the submissions made on behalf of the petitioner. This Court does not find any perversity in the order passed by the Court below and there is no merit in the revision.

9. In the result, the Criminal Revision is dismissed. The impugned order passed by the learned Judicial Magistrate, Fast Track Court No.I, Erode in C.M.P.No.846 of 2015 in C.C.No.42 of 2012, dated 07.08.2009, is hereby confirmed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate-I,
Fast Track Court, Erode.
2. The Chief Judicial Magistrate,
Erode.

Copy To
The Section Officer,
Criminal Section,
High Court, Madras-104

+1cc to Mr.M.Guruprasad, Advocate, S.R.No.70755

Cr1.R.C.No.685 of 2015
and
M.P.No.1 of 2015

RV(CO)
CS/17/09/2019