

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2018

C O R A M

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Cr1.O.P.No.14768 of 2018

L.J.Tex
Rep. by its Proprietor
M.Suresh
S/o.M.K.Marimuthu

... Petitioner

Vs.

1.P.A. Tex
Rep. by its Proprietor
S.Sakthivel.

2.Chrruthi Tex
Rep. by its Proprietor
S.Sakthivel

3.S.Sakthivel

4.R.Ramesh Raja

5.S.Muthulakshmi

... Respondents

Criminal Original Petition filed under Section 482 of Cr.P.C to call for the records pertaining to the order dated 16.02.2018 made in C.R.P.No.1 of 2018 on the file of the learned First Additional District and Sessions Judge, Erode confirming the order dated 12.12.2017 made in C.M.P.No.1628 of 2017 on the file of the learned Judicial Magistrate No.II, Erode, set aside the same, by allowing this revision petition.

For Petitioner : Mr.N.Manokaran

O R D E R

This Criminal Original Petition has been filed to call for the records pertaining to the order dated 16.02.2018 made in C.R.P.No.1 of 2018 on the file of the First Additional District and Sessions Court, Erode, confirming the order dated 12.12.2017 made in C.M.P.No.1628 of 2017 on the file of the Judicial Magistrate Court No.II, Erode and set aside the same.

2. For the sake of convenience, the petitioner and the respondents will be referred to as the complainant and the accused respectively.

3. It is the case of the complainant that the complainant and the accused entered into a wholesale textile business and that the accused had purchased goods from the complainant from 01.04.2015 to 24.03.2016 under various invoices and delivery receipts, towards which, a total sum of Rs.86,86,283/- was due and payable to the complainant.

4. Admittedly, the accused had paid Rs.33,29,975/- and his due is only a sum of Rs.53,56,308/-. Under such circumstances, the complainant filed a private complaint in CMP.No.1628 of 2017 before the Judicial Magistrate No.II, Erode. On behalf of the complainant, the sworn statement of one witness was recorded. After considering the evidence adduced by the complainant, the Judicial Magistrate No.II, Erode, dismissed the complaint on 12.12.2017. Aggrieved by the dismissal order, the complainant filed C.R.P.No.1 of 2018, which was also dismissed by the Additional District and Sessions Judge No.I, Erode on 16.02.2018, aggrieved by which, the complainant is before this Court invoking the inherent jurisdiction under Section 482 Cr.P.C.

5. The learned counsel for the complainant/petitioner submitted that both the Courts below have conducted a mini trial before dismissing the complaint filed by the complainant. He further submitted that this grave irregularity warrants interference by this Court.

6. Under Section 397 Cr.P.C., the High Court and the Sessions Court have concurrent jurisdiction. Under Section 397 (3) Cr.P.C., when once a party invokes the jurisdiction of the Sessions Court, he is precluded from approaching the High Court. In other words, a second revision to the High Court is not maintainable. However, a petition under Section 482 Cr.P.C. is maintainable in extraordinary situations, where it is shown that the orders passed by the Courts below are in gross violation of the statutory provisions. In this case, this Court does not find that the orders passed by the Courts below are in violation of statutory provisions. The Judicial Magistrate is very much empowered to dismiss the complaint filed under Section 203 Cr.P.C and the Sessions Judge is very much competent to entertain the revision petition against such an order. As regards the contention of the learned counsel for the complainant that a mini trial has been conducted, this Court perused the complaint and sworn statement and finds that the alleged transaction itself appears to be civil in nature, inasmuch as even according to the complainant, goods were supplied for the period from 01.04.2015 to 24.03.2016 to the

accused and that the accused had made payment of Rs.33,29,975/-.

7. In such view of the matter, this Court does not find any infirmity in the orders passed by the Courts below warranting interference in exercise of inherent jurisdiction under Section 482 Cr.P.C., Accordingly, this petition is dismissed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

mk
To

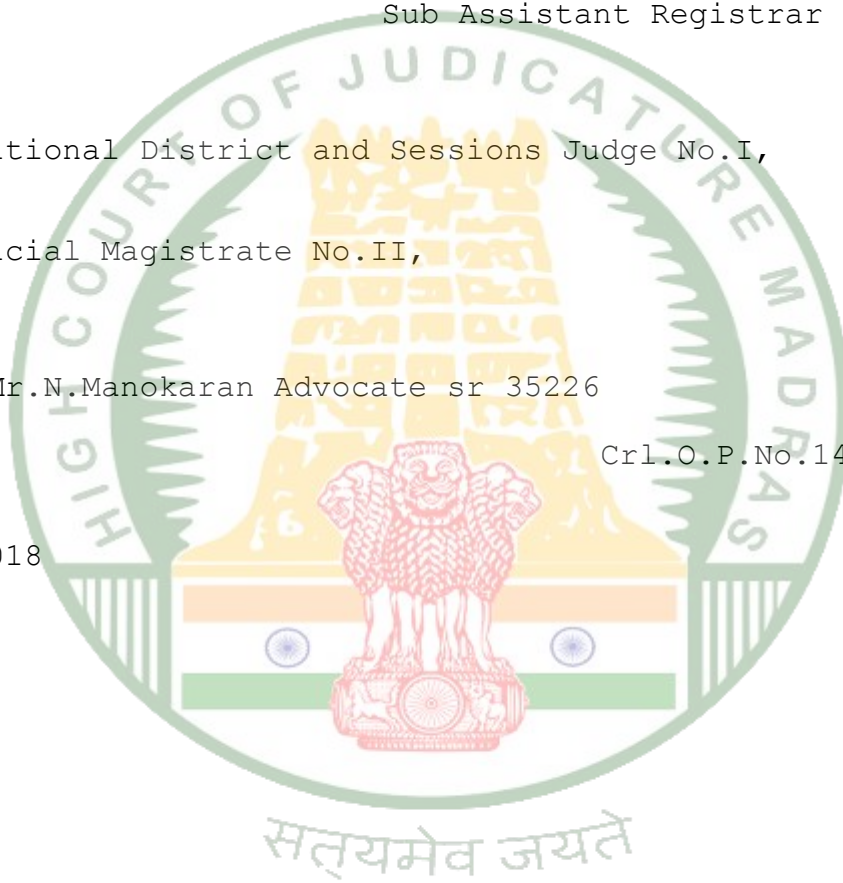
1.The Additional District and Sessions Judge No.I,
Erode.

2.The Judicial Magistrate No.II,
Erode.

+1 cc to Mr.N.Manokaran Advocate sr 35226

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