



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 18.07.2018

DELIVERED ON : 31.07.2018

CORAM :

THE HONOURABLE MRS. JUSTICE R. THARANI

Cr1.R.C.(MD) No.297 of 2018

and

Cr1.M.P.(MD) No.3994 of 2018

R.Malathi

... Petitioner/Accused

vs.

Sree Gokulam Chits and Finance Company Private Ltd,
Represented by its Authorized signatory,
Assistant Business Manager,
M.Mohanraj, S/so. Muthaiah,
having Office at Nalli Plaza,
29, Covai Road, Karur - 639 002.

... Respondent/Complainant

Prayer:- Criminal Revision Petition filed under Sections 397 and 401 of the Code of Criminal Procedure, 1973, to call for the records and set aside the order passed by the Judicial Magistrate cum Fast Track Court, Karur in Cr.M.P.No.15318 of 2017 in C.C.No.521 of 2013 on 18.04.2018.

For Petitioner : Mr.K.Chengiz Khan

For Respondent : Mr.A.Haja Mohideen

ORDER

Heard Mr.K.Chengiz Khan, learned counsel appearing for the petitioner and Mr.A.Haja Mohideen, learned counsel appearing for the respondent.

2.This petition has been filed to set aside the order passed by the Judicial Magistrate cum Fast Track Court, Karur in Cr.M.P.No.15318 of 2017 in C.C.No.521 of 2013 on 18.04.2018.

3.The respondent has filed a cheque case against the petitioner. The petitioner denied the signature in the cheque leaf. The petitioner filed a petition in Cr1.M.P.No.15318 of 2017 to send the signature in the cheque leaf for comparison with the admitted signature of the petitioner and to get an expert opinion. The petition was dismissed by the lower Court. Against the dismissal of



the petition under Section 45 of Cr.P.C., the petitioner has filed this revision.

4. It is stated that the petitioner has joined as a Subscriber in Chit group No.G2H with the complainant for a sum of Rs.5,00,000/- (Rupees Five lakhs only) payable in 20 monthly installments of Rs.25,000/- (Rupees Twenty Five Thousand only) per month, with some terms and conditions. The petitioner took chit amount on 09.06.2011 in the fifth auction and got an amount of Rs.3,74,900/- (Rupees Three Lakhs Seventy Four Thousand and Nine Hundred only). After deducting the payment made by the petitioner, the petitioner has to pay a sum of Rs.2,39,508/- (Rupees Two Lakhs Thirty Nine Thousand Five Hundred and Eight only)

5. It is stated that the petitioner executed a cheque on 12.12.2012 for the said amount and the cheque was returned as 'insufficient funds'. Hence, the respondent lodged a complaint before the Police.

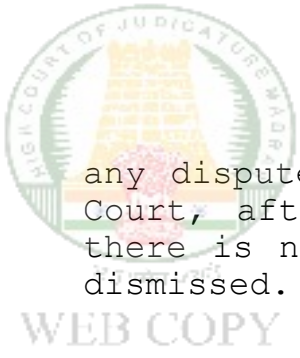
6. On the side of the petitioner, it is stated that the respondent is not sure about the amount and there is variation in the amount stated in the petition and in the cheque leaf. Even after filing the case, the respondent is receiving amount from the petitioner. It is further stated that the petitioner has not executed any cheque leaf and the cheque leaf is to be sent for expert opinion.

7. On the side of the petitioner, it is stated that the joining the chit and taking the amount in fifth auction are not denied by the petitioner. On December 2002, the entire chit period is over. Even then, the petitioner has not settled the amount. The Bank has not returned the cheque as signature differs. It was returned only as 'insufficient funds'. The respondent is a registered chit company and proper accounts are maintained by them. From 19.03.2013, the case is pending but the petitioner has not come forward to send the signature for expert opinion until now. This petition is filed after five years to drag on the proceedings.

8. Records perused. The transaction is admitted by the petitioner. The contention of the petitioner is that he has given only pro note and not the cheque and the signature is not admitted.

9. On the side of the respondent, it is stated that during the cross examination of P.W.1, the questions are asked in a way that the signature of cheque leaf are obtained at the time of pro note itself.

10. Though the case was filed in the year 2013 itself, the petitioner has not come forward with filing this petition for the past 5 years. The entire transaction is admitted by the petitioner. The learned Magistrate can himself verify the signature. If there is



any dispute regarding the quantum that can be decided by the trial Court, after completion of the trial. In the above circumstances, there is no merit in this petition. This Criminal Revision Case is dismissed. Consequently Crl.M.P.(MD)No.3994 of 2018 is closed.

/True Copy/

Sd/-
Assistant Registrar (CS-I)

Sub Assistant Registrar (CS-4)

To

The Judicial Magistrate cum Fast Track Court,
Karur.

+1CC to Mr.A.Haja Mohideen Advocate in SR.No.76041.

MRN

DS RP SAR4 :13.08.2018: 3P/3C

Crl.R.C.(MD) No.297 of 2018
31.07.2018