



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.08.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
Crl.R.C (MD) No.463 of 2017

Santhakumar : Petitioner/Appellant/
2nd accused

Vs.

Sannasi Perumal : Respondent/Respondent/
Complainant

PRAYER: Revision filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to call for the records on the file of learned Principal District and Sessions Judge, Theni in C.A.No.23/2012 dated 12.09.2016 and the Judgment passed by the learned Fast Track Court Judicial Magistrate level, Theni in S.T.C.No.253/2011 dated 10.04.2012 and set aside the order of the Courts below.

For Petitioner : Mr.P.Gunasekaran
For Respondent : Mr.R.Prasanna
for M/s.Veera Associates

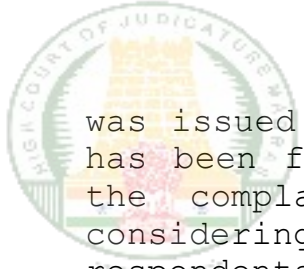
ORDER

This Criminal Revision case is filed against the Judgment dated 12.09.2016 made in C.A.No.23 of 2012 on the file of the Principal District and Sessions Judge, Theni, confirming the Judgment passed in S.T.C.No.253 of 2011 on the file of the Fast Track Court (Judicial Magistrate level), Theni.

2.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

3.This petition is directed against the concurrent finding of the Courts below in a proceeding initiated under Section 138 of the Negotiable Instruments Act.

4.The brief facts of the case is that the revision petitioner has issued a cheque for a sum of Rs.5,00,000/- to the respondent/de *facto* complainant on 14.02.2011 to discharge his debt. When the said cheque was presented for collection on 28.04.2014, it got bounced for want of sufficient fund. Therefore, a statutory notice



was issued to the revision petitioner and thereafter, the complaint has been filed before the trial Court. The trial Court has taken the complaint on file assigned S.T.C.No.253 of 2011. After considering the evidence let in by the *de facto* complainant and the respondents, the Trial Court has convicted the second respondent/revision petitioner and sentenced him to under go six months simple imprisonment and to pay a sum of Rs.5,00,000/- as compensation, in default, to undergo three months simple imprisonment. However, the Secretary, the Dreams NGO organisation No.149/99 represented by the Secretary, namely, Santhakumar which was arrayed as first accused, was acquitted by the trial Court. Aggrieved by that, the second respondent/revision petitioner has preferred an appeal and the same was dismissed, confirming the order of the trial Court. Aggrieved by that, the criminal revision case has been filed.

5.The learned counsel appearing for the revision petitioner would submit that admittedly the cheque was issued by the Secretary, Dreams NGO. Therefore, convicting the signatory of the cheque is unsustainable. Further, the learned counsel appearing for the revision petitioner before the Court below, did not defend about one of grounds, properly.

6.Heard the learned counsel for the respondent.

7.This Court finds no merit in the ground raised by the revision petitioner. In fact, while preferring the complaint, Dreams NGO represented by Santha Kumar, is arrayed as first accused and Santha Kumar, who is revision petitioner, is arrayed as second accused. The trial Court after considering the facts of the case, has found that the cheque was issued to discharge the personal debt of the revision petitioner herein and therefore, NGO is not liable for any criminal prosecution and acquitted the first respondent, namely, Dreams NGO under Section 255(1) Cr.P.C. In the said circumstances, the second respondent, who is the actual borrower and liable to pay the debt of Rs.5,00,000/- to the complainant, has been rightly convicted by the trial Court. The other ground raised by the revision petitioner that his counsel did not defend him properly cannot be agitated in the revision petition. The Courts below have gone through the records and evidence and have passed appropriate order. Therefore, this Court finds no illegality or irregularity in the findings of the Courts below to exercise the revisional jurisdiction. Hence, this Criminal Revision case is dismissed.

Sd/

Assistant Registrar (Crl Side)

/True copy/

Sub Assistant Registrar (CS-IV)



2.The Fast Track Court Judicial Magistrate level,
Theni.

+1cc to M/S.VEERA ASSOCIATES, Advocate, SR.No.80429

+1cc to Mr.P.GUNASEKARAN, Advocate, SR.No. 80857

Cr1.R.C (MD) No.463 of 2017
27.08.2018

CP

KK/RP/SAR-4/24.09.2018/3P-5C