



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 10.04.2018

DELIVERED ON : 21.06.2018

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.534 of 2017

and

Crl.M.P.(MD)Nos.5974 and 5975 of 2017

R.Sundaram

.. Revision Petitioner/Accused

Vs.

P.Rajendran

.. Respondent/Complainant

Prayer : This revision case is filed under Sections 397(1) r/w. 401 of Cr.P.C., to set aside the judgment passed by the learned Fast Track Mahila Court, Karur in C.A.No.75 of 2016 dated 23.11.2016 modifying the judgment passed by the learned Judicial Magistrate (Fast Track Court), Karur in C.C.No.172 of 2014 dated 21.09.2016.

For Petitioner : Mr.C.Suresh Kumar
Legal Aid Counsel

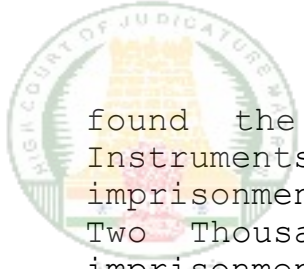
For Respondent : Mr.S.Gokul Raj

ORDER

Heard Mr.C.Suresh Kumar, learned legal aid counsel appearing for the petitioner and Mr.S.Gokul Raj, learned counsel appearing for the respondent.

2.This revision case has been filed to set aside the order passed by the learned Fast Track Mahila Court, Karur in C.A.No.75 of 2016 dated 23.11.2016 modifying the judgment passed by the learned Judicial Magistrate (Fast Track Court), Karur in C.C.No.172 of 2014 dated 21.09.2016.

3.The facts of the case is that the petitioner borrowed a sum of Rs.1,50,000/- from the respondent as hand loan for the urgent needs and family expenses. On the date of receipt of the amount, the petitioner has issued a post dated cheque bearing date 01.11.2013. When the respondent approached the Bank for collection of amount, the cheque was returned as 'insufficient funds'. The trial Court



found the petitioner guilty under Section 138 of Negotiable Instruments Act, convicted and sentenced him to undergo a simple imprisonment of three months and to pay a fine of Rs.2,000/- (Rupees Two Thousand only) in default to undergo 15 days of simple imprisonment. The petitioner preferred an appeal before the learned Fast Track Mahila Court, Karur which confirmed the conviction and modified the sentence alone from three months simple imprisonment to one month simple imprisonment.

4. On the side of the petitioner, it is stated that the petitioner has not borrowed any amount and the complainant is the owner of the house, wherein the respondent is residing as a tenant and a blank cheque was issued as a token of advance. In his evidence, it is stated that the respondent is the landlord and the petitioner is the tenant and that the respondent has misused the cheque given for security purpose and that there is no legal enforceable debt and it is prayed that the judgment of the lower Court ought to be dismissed.

5. On the side of the respondents, it is stated that there is no custom to receive cheque as security for the advance amount while renting the house. The statement of the revision petitioner that the cheque was issued towards rental advance is unbelievable. The petitioner has not proved his defence through independent witness.

6. Records perused. The cheque was issued by the respondent as a rental advance is the defence of the revision petitioner. Thereby, the petitioner has admitted the signature in the cheque. It is the duty of the petitioner to prove that the respondent has misused the cheque. No oral or documentary evidence is placed by the revision petitioner before the lower Court. The accused has not let in any convincing evidence in order to rebut the statutory presumption wherein the respondent has proved that there is a legally enforceable debt. The petitioner has admitted the signature in the cheque. The cheque while presented for collection, was returned as 'insufficient funds'. There is no reason to interfere with the order passed by the lower Appellate Court and in the above circumstances, there is no merits in this petition. This criminal revision case is dismissed and thereby, confirming the order passed by the lower Appellate Court. Consequently, Crl.M.P. (MD) Nos. 5974 and 5975 of 2017 are closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To
<https://hcservices.ecourts.gov.in/hcservices/>
1. The Fast Track Mahila Court,
Karur.



2.The Judicial Magistrate (Fast Track Court),
Karur.

+1CC to Mr.S.Gokulraj Advocate in SR.No.69200.

+1CC to Mr.C.Suresh Kannan, Advocate in SR.No.69560.

MRN

DS/RP/SAR-4 :12.07.2018: 3P/4C

Crl. R.C.(MD)No.534 of 2017
21.06.2018