



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2018

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WEB COPY

THE HON'BLE DR.JUSTICE G.JAYACHANDRAN

Cr1.R.C.(MD) No.454 of 2018

K.Kurinjieswaran ...Petitioner/Appellant/Sole Accused
Vs.
K.Ganesan ...Respondent / Respondent/Complainant
S/O.kaliyappan,
rep by his Power Agent,
R.Arunachalasamy.

PRAYER:Criminal Revision Petition - filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records and set aside the conviction and sentence in C.A.No.24 of 2014 dated 19.02.2018 on the file of the Additional District and Sessions Judge, Theni at Periyakulam by confirming the conviction & sentence passed by the learned Judicial Magistrate Fast Track Court (M.L), Theni in S.T.C.No.319 of 2011 dated 15.04.2014 and acquit the petitioner.

For Petitioner : Mr.AK.Azagarsami

O R D E R

This Criminal Revision Petition is directed against the concurrent findings of the Courts below in respect of dishonoring of cheque issued by the revision petitioner to the deceased respondent Ganesan.

2.In the course of business transaction in "M/s Sri Ganesh Sanitary Wares", the petitioner has issued a cheque for a sum of Rs.3,54,605/- to discharge his liability. Since the cheque was dishonored, the private complaint has been filed before the learned Fast Track Court, (M.L), Theni, for the offences punishable under Section 138 of Negotiable Instruments Act. After examining the witnesses and exhibits, which were marked as P1 to P7 and X1 to X4 and hearing the defence witnesses, the Court below has found the revision petitioner guilty under Section 138 of Negotiable Instruments Act and sentenced the petitioner to undergo simple imprisonment for a period of two years and imposed a fine of Rs.5,000/-, in default to undergo simple imprisonment for a period of one month. Aggrieved by the finding, an appeal has been preferred and the same was also dismissed. Against which, the present criminal revision case has been filed.



3. In this criminal revision case, the accused contends that there is no evidence regarding for what purpose, the cheque was issued, on what date, it was issued and in whose presence, it was issued. The complainant has failed to prove that the cheque is for the legally enforceable debt. Hence, the finding of the Court below has to be reversed. Further, the source of income for lending more than three lakhs has also not been explained.

4. The above grounds raised in this revision are pertaining to the facts of the case. The finding of the trial Court points out that since the complainant has proved that the cheque was issued by the revision petitioner herein and there was business transaction between the complainant and the petitioner, wherein to discharge the debt the revision petitioner paid a sum of Rs.3,54,605/- to the complainant by way of cheque.

5. From the facts and circumstances of the case, the finding of the Court below does not warrant any interference of this Court. Hence, this Criminal Revision Petition is dismissed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

(CS-IV)

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To

1. The Additional District and Session Judge, Theni
Periyakulam.

2. The Judicial Magistrate Fast Track Court (M.L),
Theni

+1cc to Mr. A.K. Azhagarsami, Advocate in SR No.81909

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NM/SV/SAR 4/01.10.18/2P/4C