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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 28.08.2018

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
CrI.R.C.(MD)No.497 of 2018

Rahmathnisha

... Petitioner/Appellant

Vs.

Rajendran

... Respondent/Respondent

PRAYER: Petition filed under Section 397 and 401 of Criminal Procedure Code, to call for the records relating to the order passed in CrI.A.No.42 of 2017 dated 23.03.2018 on the file of the Sessions Court, Trichirappalli, confirming the order passed in S.T.C.No.204 of 2016 dated 11.04.2017 on the file of the Judicial Magistrate Court, Manapparai, Trichy District and set aside the same.

For petitioner : Mr.V.Karuna

ORDER

Heard the learned counsel for the revision petitioner and perused the grounds of this revision petition.

2.The matter of concurrent findings arising out of Negotiable Instruments Act. The revision petitioner has given a cheque for Rs.1,95,000/- (One Lakh Ninety Five Thousand only) to discharge his legally enforceable debts, has failed to honour the same. Therefore, the respondent herein has initiated proceedings under Section 138 of Negotiable Instruments Act, after issuing the statutory notice.

3.The trial Court, after examining the complainant and perusing Ex.Ps.P1 to P4 and the defence witnesses D1 to D4 and defence side Ex.D1, had arrived at an conclusion that the cheque is issued for his legally enforceable debt. Having issued the cheque, the revision petitioner / accused has failed to honour the same and also she has not let in evidence to rebut the presumption upon her.

4.On appeal, the appellate Court has confirmed the order of the trial Court, convicting the revision petitioner to undergo six months simple imprisonment and to pay a compensation of Rs.1,95,000/- under Section 357 of Cr.P.C., and in default, undergo a further period of three months.



5. Aggrieved by the same, the revision petitioner filed this revision petition on the grounds that the complainant PW.1 has not proved his source of income to advance a loan of Rs.1,95,000/-; the answer given by the revision petitioner / accused for the incriminating evidence against her during the 313 Cr.P.C., proceedings was not considered by the Courts below; P.W.1 and P.W.2 were not cross examined by the revision petitioner at the first instance; When a petition to recall was filed, she was able to cross examine only P.W.1.; the trial Court has closed the evidence on the side of the complainant.

6. The main contention raised in the revision petition by the revision petitioner before the trial Court and appellate Court is that she is not a signatory of the cheque, she is not known to the defacto complainant. To that effect, she has examined D.W.1 to D.W.4 and also marked the bank statement (D.W.1), which indicates, the account was closed.

7. From the order of the trial Court it is also seen that after completion of the trial, when the matter was posted for arguments, the revision petitioner has abstained herself from putting forth her argument by oral or by written statement. However, in her appeal, she has raised all the contentions available for her.

8. The appellate Court has gone in detailed about the contention of the revision petitioner, regarding the source of income disputed. The complainant being a business man and owe property, the plea of non-disclosure of source of income was negatived by the appellate Court. Similarly, the cheque issued by the revision petitioner in favour of the complainant and later closing her account, failure to adduce rebuttal evidence cumulative relief had led to a conclusion that the revision petitioner has no ground to agitate.

9. The reading of the judgment of the Courts below, more particularly, the detailed reasoning given by the appellate Court, this Court finds no illegality in the order of the appellate Court to interfere with.

10. Accordingly, this Criminal Revision Case is dismissed with a cost of Rs.2,000/- payable to the respondent.

Sd/-

Assistant Registrar (Crl.Side)

/True Copy/



To:
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1.The Sessions Judge,
Trichirappalli.

2.The Judicial Magistrate,
Manapparai,
Trichy District.

+1CC TO MR.V.KARUNA, ADVOCATE IN S.R.NO.80545.

PNN

DS RP SAR-4 01.10.2018 3P/4C

ORDER MADE IN
Cr1.R.C. (MD) No.497 of 2018

28.08.2018