

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 08.03.2019

CORAM
THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.7709 of 2013
and
M.P.No.1 of 2013

N.Murugesan,
S/o.V.K.Natesan.

... Petitioner/Accused

Vs.

V.C.Ravichandran,
S/o.Chinniah.

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the order dated 30.01.2013 in C.R.P.No.28 of 2012 on the file of the III Additional District & Sessions Judge, Salem, confirming the order dated 28.05.2012 in C.M.P.No.3067 of 2012 in S.T.C.No.695 of 2011 on the file of the learned Judicial Magistrate No.III, Salem.

For Petitioner : Mr.K.Selvaraj

For Respondent : Mr.P.Jagadeesan

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O R D E R

This Criminal Original Petition has been filed to set aside the order dated 30.01.2013 in C.R.P.No.28 of 2012 on the file of the III Additional District & Sessions Judge, Salem, confirming the order dated 28.05.2012 in C.M.P.No.3067 of 2012 in S.T.C.No.695 of 2011 on the file of the Judicial Magistrate Court No.III, Salem.

2.The petitioner is an accused in a case filed by the respondent for the offence under Section 138 of the Negotiable Instruments Act, which is pending in S.T.C.No.695 of 2011 on the file of the Judicial Magistrate Court No.II, Salem. The petitioner in this case has filed a petition in C.M.P.No.3067 of 2012 seeking a direction from the Lower Court to sent the cheque for handwriting expert, since the writing and the signature found in the cheque differs. The specific stand of the petitioner is that he had given the signed blank cheque to the respondent/complainant and he had not authorised the

respondent/complainant to fill up the cheque and without his authority the cheque was filled up and deposited by the respondent.

3.The learned Judicial Magistrate NO.III, Salem had dismissed the prayer of the petitioner by her order dated 28.05.2012, against which the petitioner had preferred a revision before the District and Sessions Judge, Salem in C.R.P.No.28 of 2012. The learned Sessions Judge had dismissed the Criminal Revision Petition by his order dated 30.01.2013. Thereafter, this Criminal Original Petition came to be filed before this Court.

4.The contention of the respondent is that this Criminal Original Petition is not maintainable, since the petitioner had approached the Sessions Court for a similar prayer in C.R.P.No.28 of 2012 and the petition filed before this Court would amount to second revision, which is not permissible.

5.Further, it is an admitted case that the petitioner admits the signature and as per section 20 of the Negotiable Instruments Act, once a person signs and delivers to another a paper stamped in accordance with the law relating to negotiable instruments then in force in 1[India], and either wholly blank or having written thereon an incomplete negotiable instrument, he thereby gives prima facie authority to the holder thereof to make or complete, as the case may be, upon it a negotiable instrument, for any amount specified therein and not exceeding the amount covered by the stamp. The person so signing shall be liable upon such instrument, in the capacity in which he signed the same, to any holder in due course for such amount; provided that no person other than a holder in due course shall recover from the person delivering the instrument anything in excess of the amount intended by him to be paid thereunder.

6.Further for the statutory notice, he had not sent any reply notice and now he makes such a claim by way of this petition. This claim has been made only to protract the case and delaying the trial further. The case is of the year 2011 and the cheque amount involved is Rs.13,97,500/- (Rupees thirteen lakh ninety seven thousand five hundred only) due to the pendency of the above case, the trial in the lower Court could not be progressed and the respondent is put to great hardship.

7.Heard the learned counsel for the petitioner and the learned counsel for the respondent.

8.On a perusal of this Criminal Original Petition, it is seen that the petitioner for the same prayer he had approached the Sessions Court in C.R.P.No.28 of 2012, which came to be

dismissed by an order 30.01.2013, aggrieved against the same the present Criminal Original Petition is filed, which amounts to second revision.

9.The categorical admission of the petitioner is that he had signed the cheque and handed over the same to the respondent. Now the petitioner cannot claim that the cheque was filled up without his authority and reply has been sent to the statutory notice.

10.This Court relied upon the decision of the Hon'ble Supreme Court of India in the case of Rajathi Vs. C.Ganesan reported in (1999) 6 SCC 326, wherein it has been held that the bar of second revision after dismissal of first one by the Sessions Court -- Inherent powers of High Court cannot be utilised as a substitute for second revision.

11.In the light of the above said decision of the Hon'ble Supreme Court in the case of Rajathi Vs. C.Ganesh cited supra, this Court has dismissed the above said Criminal Original Petition on the ground of non-maintainability. The Trial Court is directed to complete the trial within a period of three months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1.The III Additional District &
Sessions Judge,
Salem.

2.The learned Judicial Magistrate No.III,
Salem.

3.The Public Prosecutor
High Court, Madras.

Cr1.O.P.No.7709 of 2013

VBA (CO)

RRS (22/04/2019)