

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2019

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.R.C.No.1550 of 2012

Mangayarkarasi

.. Petitioner /Complainant

Vs.

G.Nagalakshmi

.. Respondent/Accused

Criminal Revision filed under Section 397 read with 401 Cr.P.C to set aside the order made by the Judicial Magistrate II, Poonamallee, Tiruvallur in unnumbered C.C.No..../2012 dated 29.11.2012 and to further direct the learned Magistrate to take up the compensation file and proceed according to law.

For Petitioner : Mr.S.Davis Elangovan
(No Appearance)

For Respondent : Mr.C.Prabakaran

JUDGMENT

This Criminal Revision has been preferred challenging the order dated 29.11.2012 passed by the Judicial Magistrate II, Poonamallee, Tiruvallur in unnumbered C.C.No..../2012.

2. When the matter was taken up for hearing on 04.11.2019, there was no representation for the petitioner and therefore, the case was directed to be listed today under the caption "For Dismissal". There is no representation for the petitioner today also. However, the learned counsel for the respondent is present. Therefore, this Court perused the original records in order to find out if there is any illegality or perversity in the order passed by the Court below.

3. It is the case of the petitioner that she had borrowed a sum of Rs.50,000/- from the respondent in May 2009 and at that time, the respondent had taken a blank, but signed cheque from her as security; she repaid the loan to the respondent, but the respondent did not return the cheque; the respondent has filled the blank cheque for Rs.5,00,000/- and had it presented; on dishonour of the said cheque, the respondent issued a demand notice dated 23.07.2001, which was received by the petitioner; the petitioner contacted the respondent and at that time, the respondent told her that the matter would be settled amicably and therefore, the petitioner did not take any further step;

however, the respondent initiated a prosecution under Section 138 of the Negotiable Instruments Act, 1881 before the Judicial Magistrate II, Poonamallee against the petitioner; Hence, the petitioner filed a private complaint under Section 200 Cr.p.C before the Judicial Magistrate II, Poonamallee against the respondent alleging that the respondent had forged the cheque and filed the prosecution under Section 138 of the Negotiable Instruments Act.

4. The learned Judicial Magistrate II, Poonamalllee, after recording the sworn statement of the petitioner, has dismissed the private complaint under Section 203 Cr.P.C , challenging which this revision has been filed under Section 397 r/w.401 Cr.P.C.

5. In the opinion of this Court, even if the respondent had filled-in the cheque, it would not amount to forgery in view of Section 20 of the Negotiable Instruments Act and also in the light of the judgment of the Supreme Court in Bir Singh Vs Mukesh Kumar [(2019) 4 SCC 197]. The learned Judicial Magistrate II, Poonamallee was perfectly right in dismissing the private complaint by holding that it is only a counterblast for the complaint that has been filed by the respondent against the petitioner herein for the offence under Section 138 of the Negotiable Instruments Act. This Court does not find any infirmity in the order passed by the trial Court warranting interference.

Ergo, this revision petition stands dismissed.

Sd/-
Assistant Registrar (CS-VI)

// True Copy//

Sub Assistant Registrar

gpa

To

1.The Judicial Magistrate II,
Poonamallee, Thiruvallur.

Cr1.R.C.No.1550 of 2012

CA(CO)
CSR:17/12/2019