

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated : 22.04.2019

Coram::

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Criminal Revision Case No.675 of 2012

G.Anbalagan,
S/o.Govindasamy,
No.J.23, East Anna Nagar,
Chennai-600 102.

...Petitioner/Petitioner/Accused

/versus/

B.Balaji, Partner,
M/s.Maleeswara Sai & Co.,
No.60/13, Acharappan Street,
First Floor, Chennai-600 001

..Respondent/ Respondent/Complainant

Prayer:- Criminal Revision Case filed under Section 397 r/w 401 of Criminal Procedure Code, praying to set aside the order dated 24.05.2011 made in CrI.M.P.No.442 of 2011 in C.C.No.11290 of 2007 on the file of the Chief Metropolitan Magistrate, Egmore, Chennai.

For Petitioner : Mr.M.Palanivel

For Respondent : Mr.N.Srinivasulu

O R D E R

The learned counsel for the revision petitioner is not ready, despite several adjournments.

2. This revision petition is filed by the petitioner/accused against the dismissal of discharge petition filed under Section 239 of Cr.P.C. The criminal complaint was taken on file by the Chief Metropolitan Magistrate, Egmore, in the year 2007, after four years of discharge petition filed by the accused, which came to be dismissed.

3. Aggrieved by that, this revision petition is filed before this Court and kept pending. From the notes paper, it indicates that whenever the matter was listed, the learned counsel for the petitioner has expressed in convenience and sought adjournments under one pretext or another.

4. The perusal of the records and the submissions of the learned counsel for the respondent indicates that the petitioner and the respondent had trade transaction in respect of supplying of dry Chilies. The cheques issued towards the payment of goods sold and delivered, on presentation had returned for "insufficient of fund". In the discharge petition, the accused has admitted the trade transaction and running account between him and the complainant. Referring about the earlier criminal complaint given before the Central Crime Branch, Chennai and civil suit pending, the petitioner has sought for discharge, which has been considered by the Court below and rightly dismissed on the ground that the sworn statement of the complainant prima facie provides material for trial, wherein, the accused has admitted the liability and given two cheques and also agreed to sell the property to clear the debt but failed to sell his property since, the documents did not contain the correct boundaries. The two cheques for Rs.20 lakhs and Rs.18 lakhs has been issued by the accused and same has been returned for "insufficient of fund". Having prima facie material available to charge the accused and try him for offence under Section 138 of Negotiable Instrument Act, the discharge petition is not maintainable.

5. The reasoning given by the trial Court is acceptable and whatever defence given by the accused has to be agitated only in the trial. Discharge petition is not maintained. The order of the trial Court is in accordance with law and facts, there is no perversity or illegality to interfere. Accordingly, the Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

bsm

To,

1. The Chief Metropolitan Magistrate,
Egmore, Chennai.
2. The Section Officer,
Criminal Section, High Court, Madras.

+1cc to Mr.N.Srinivasulu, Advocate, S.R.No.39148

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NA (CO)
RRS (20/06/2019)