



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.03.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.RC.No.299 of 2019
and
Crl.M.P.No.3526 of 2019

P.Thanigaivelan

... Petitioner/Accused

Vs

Vairapugazhendhi

... Respondent/Complainant

PRAYER: Criminal Revision case filed under Article 397 r/w 401 of Criminal Procedure Code, to set aside the order dated 16.11.2018 passed in Crl.M.P.No.77 of 2018 in C.A.No.110 of 2017 on the file of the III Additional District and Sessions Judge, Cuddalore at Virudhachalam.

For Petitioner : Mr.K.A.Ravindran

For Respondent : Mr.R.Rvichandran
Government Advocate (Criminal Side)

O R D E R

This Criminal Revision case has been filed to set aside the order passed in Crl.M.P.No.77 of 2018 in C.A.No.110 of 2017 on the file of the learned III Additional District and Sessions Judge, Cuddalore at Virudhachalam.

2. The respondent/complainant has filed a private complaint against the revision petitioner before the learned Judicial Magistrate No-I, Virudhachalam in S.T.C.No.898 of 2009 for the offence under Section 138 of Negotiable Instruments Act, in the year 2009. After trial, the learned Judicial Magistrate No-I found the accused guilty and convicted for the offence under Section 138 of Negotiable Instruments Act, and sentenced to undergo simple imprisonment for a period of one year and in addition a compensation of Rs.4,00,000/- was ordered to be paid by the accused within a period of three months. As against the said order, the revision petitioner filed an appeal before the learned Principal District and Sessions Judge, Cuddalore at Virudhachalam.



3. During the pendency of the said criminal appeal, the petitioner filed a petition under Section 391 of Cr.P.C., in C.M.P.No.77 of 2018. Though, the appellate Court dismissed the said petition for the reasons stated that despite given sufficient opportunity to the petitioner, he has not taken any steps to prove his case before the trial Court. As against the said dismissal order the petitioner filed a present revision case before this Court.

4. The learned counsel for the petitioner submitted that, the respondent forcefully obtained signatures in the blank papers and cheques in the police station, Viruthachalam and further he would submit that the respondent trespassed into the petitioner's house and taken documents and complaint was lodged for the same. The appellate Court has failed to consider the fact and circumstances of the case. Hence, the learned counsel for the petitioner prays to allow this revision case.

5. Heard the learned counsel for the petitioner as well the learned Government Advocate (Criminal side) for the respondent and perused the materials available on record.

6. Considering the facts and circumstances of the case, the respondent filed a private complaint in the year 2009 itself. A statutory notice was issued on 17.08.2009. The matter was pending before the learned Judicial Magistrate No-I for more than 6 ½ years, after seven years the learned Judicial Magistrate No-I, Virudhachalam disposed the case on 10.07.2017 in S.T.C.No.898 of 2009 only on merits. The petitioner has not taken any step to defend his case and no documents were produced, in order to fill up the lacuna and approach the appellate Court by invoking under Section 391 of Cr.P.C.,

7. This Court does not find any merit and there is no perversity in the order passed by the appellate Court in C.M.P.No.779 of 2018 in C.A.No.110 of 2017 on the file of the learned III Additional District and Sessions Judge, Cuddalore at Virudhachalam. Accordingly, this Criminal Revision Case stands dismissed. Consequently, connected Criminal Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS)

//True copy//

Sub Assistant Registrar

sbn



To

1. The Judicial Magistrate No-I,
Virudhachalam.

2. The III Additional District and Sessions Judge,
Cuddalore,
Virudhachalam.

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.A.Ravindran, Advocate SR.No.23059

CrI.R.C.No.299 of 2019
and
CrI.M.P.No.3526 of 2019

CA(CO)
GMY(03/01/2020)