

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.07.2019

CORAM

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

Crl.R.C.No.661 of 2019
and Crl.M.P.No.9230 of 2019

E.Velu

.. Petitioner

Vs.

V.Kovalan

.. Respondent

Criminal Revision filed under Section 397 read with Section 401 Cr.P.C. seeking to set aside the order dated 12.04.2019 passed in C.M.P.No.101 of 2019 in C.C.No.222 of 2018 on the file of the Judicial Magistrate, FTC (Magisterial Level), Ambattur.

For Petitioner : Mr.A.Edinbrough

ORDER

This criminal revision has been filed seeking to set aside the order dated 12.04.2019 passed by the Judicial Magistrate, FTC (Magisterial Level), Ambattur in C.M.P.No.101 of 2019 in C.C.No.222 of 2018.

2.For the sake of convenience, the petitioner and the respondent are referred to as the accused and complainant respectively.

3.It is the case of the complainant that the accused is his close friend and that the accused was into vegetable business. The accused asked for a hand loan of

Rs.4,00,000/-, which the complainant gave on 02.10.2017, towards which, the accused gave eight cheques for Rs.50,000/- each dated 18.02.2018. When the complainant presented the eight cheques, they were returned unpaid with the endorsement "funds insufficient". The complainant issued a statutory notice dated 31.03.2018 demanding repayment, for which, the accused did not reply. Thereafter, the complainant initiated prosecution in C.C.No.222 of 2018 before the Judicial Magistrate, Fast Track Court, Ambattur under Section 138 of the Negotiable Instruments Act, 1881, against the accused. At the time of questioning under Section 251 Cr.P.C., the accused denied the allegation. The complainant examined himself as witness and was subjected to cross-examination. The accused was examined under Section 313 Cr.P.C. Thereafter, the accused filed C.M.P.No.101 of 2019 in C.C.No.222 of 2018 alleging that the cheques have been written by someone else and therefore, it should be sent to the handwriting expert for opinion. The said petition has been dismissed by the trial Court on 12.04.2019, challenging which, the accused is before this Court.

4. Heard Mr. Edinbrough, learned counsel for the accused who submitted that the accused has to discharge the burden under Section 139 of the Negotiable Instruments Act, 1881, for which, it is essential to send the cheques to the handwriting expert. However, on perusal of the trial Court order, it is seen that the accused had not even replied to the statutory notice that was issued by the complainant. That apart, the accused had not even stated in the 313 statement that the cheques were not issued by him. The accused had admitted the issuance of cheque. Therefore, the trial Court was right in invoking Section 20 of the Negotiable

Instruments Act, 1881, to reject the prayer of the accused. Under such circumstances, this Court does not find any infirmity in the order passed by the trial Court warranting interference.

In the result, this criminal revision is dismissed being devoid of merits. Connected miscellaneous petition is closed.

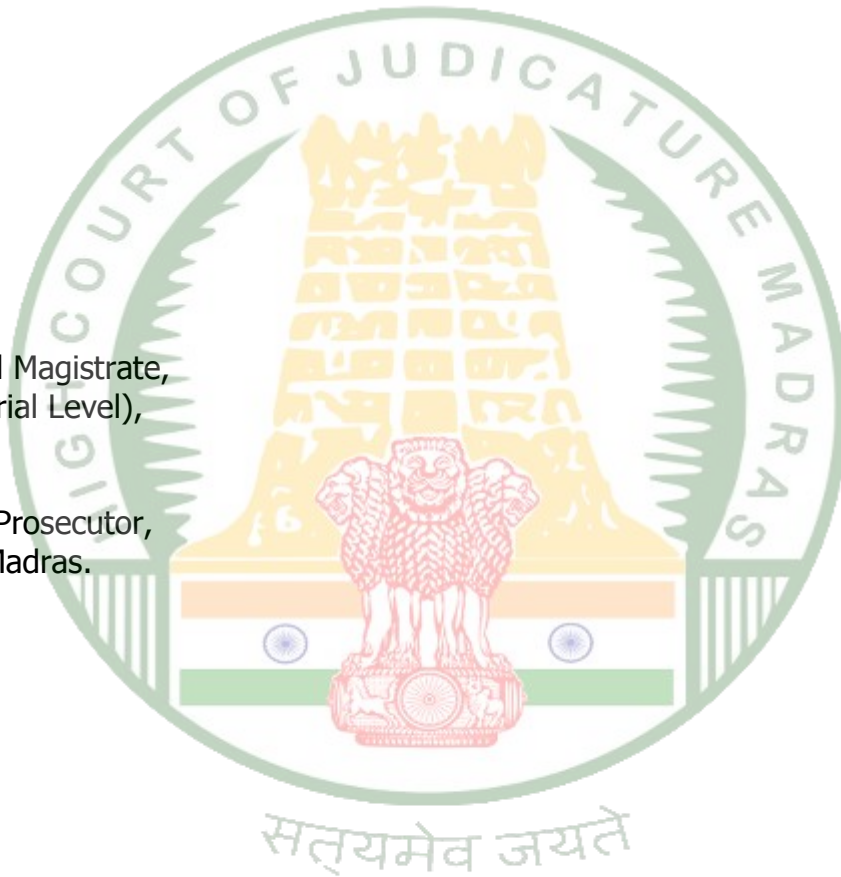
10.07.2019

gya

To

1.The Judicial Magistrate,
FTC (Magisterial Level),
Ambattur.

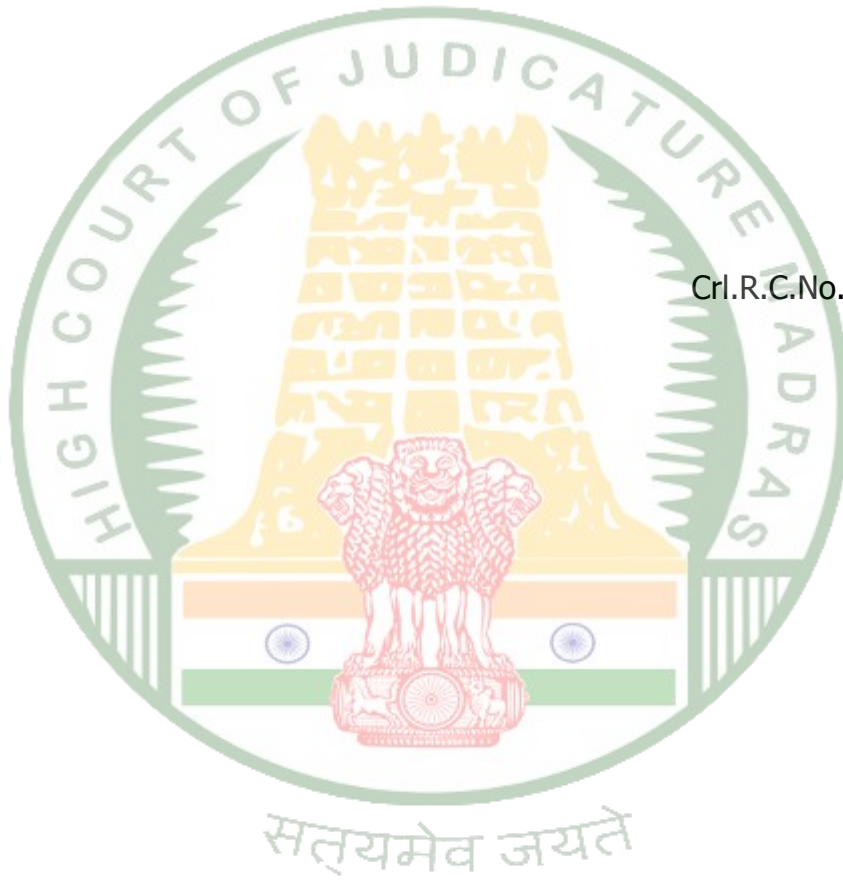
2.The Public Prosecutor,
High Court, Madras.



WEB COPY

P.N. PRAKASH, J.

gya



Crl.R.C.No.661 of 2019

09.07.2019

WEB COPY