

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2020

CORAM :

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

CrI. R.C. No.1543 of 2013

N.Raji ... Revision Petitioner/Complainant

Vs.

Ramasamy ... Respondent/A2

Criminal Revision Case filed under Section 397 r/w. 401 Cr.P.C., against the judgment, dated 23.08.2013, passed by the II Additional District and Sessions Judge, Erode, in C.A.No.70 of 2011, modifying the judgment, dated 16.05.2011, passed by the Judicial Magistrate No.III, Erode, in C.C.No.323 of 2009.

For Petitioner : Mr.Sivaprakasam
for Mrs.P.T.Ramadevi

For Respondent : Mr.R.Raghul
for Mr.N.Manokaran

O R D E R

This Criminal Revision Case has been filed against the judgment, dated 23.08.2013, passed by the II Additional District and Sessions Judge, Erode, in C.A.No.70 of 2011, modifying the judgment, dated 16.05.2011, passed by the Judicial Magistrate No.III, Erode, in C.C.No.323 of 2009.

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

3.It is the case of the complainant that he is the Proprietor of R.N.T.Exports and A2 and A3 are the partners of Vamana & Company (A1); A1 is a manufacturer of textiles and the complainant is a dealer in textiles; the complainant had given advance payments to a tune of Rs.4,93,700/- for supply of goods; when the accused did not supply the goods, the complainant demanded the return of the advance amount and therefore, the accused gave two cheques, one dated 04.09.2008 for Rs.1,90,000/-, and the other dated 18.09.2009 for Rs.2,90,000/-; both cheques were dishonoured, pursuant to which, the complainant issued a statutory demand notice dated

28.03.2009 (Ex.P3), for which, the accused issued a reply notice dated 15.04.2009 (Ex.P6); since the accused did not return the amount, the complainant initiated a prosecution in C.C.No.323 of 2009, before the Judicial Magistrate No.III, Erode, for the offence under Section 138 of the Negotiable Instruments Act, against the accused, in which, by judgment and order dated 16.05.2011, the accused was convicted and sentenced to simple imprisonment for three months and was directed to pay a sum of Rs.4,80,000/- as compensation to the complainant.

4.The accused filed an appeal in C.A.No.70 of 2011, which was heard by the II Additional District and Sessions Judge, Erode. The Appellate Court, by judgment dated 23.08.2013, acquitted the accused in respect of the first cheque dated 04.09.2008 and confirmed the conviction qua second cheque dated 18.09.2009. The sentence was modified to the effect that the accused was directed to deposit Rs.2,90,000/-, and compensation of Rs.25,000/-, within one month, before the trial Court, in default, the accused was directed to undergo simple imprisonment for three months.

5.Challenging this portion of the judgment of the Appellate Court, the complainant is before this Court.

6.Heard learned counsel for the complainant and learned counsel for the accused.

7.It is not known whether the accused has complied with the order of the Appellate Court and deposited Rs.2,90,000/-. It is also not known whether the accused has filed any revision case, challenging the order of the Appellate Court.

8.Learned counsel for the complainant submitted that the Appellate Court ought not to have acquitted the accused in respect of the first cheque dated 04.09.2008 and should have convicted him.

9.It is seen that the first cheque is dated 04.09.2008 and on facts, the Appellate Court has found that the said cheque was presented after the period of limitation. On facts, this Court does not find any infirmity in the judgment of the Appellate Court, warranting interference.

As a result, this Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

mkn

Copy to :

1.The II Additional District and Sessions Judge,
Erode.

2.The Judicial Magistrate No.III,
Erode.

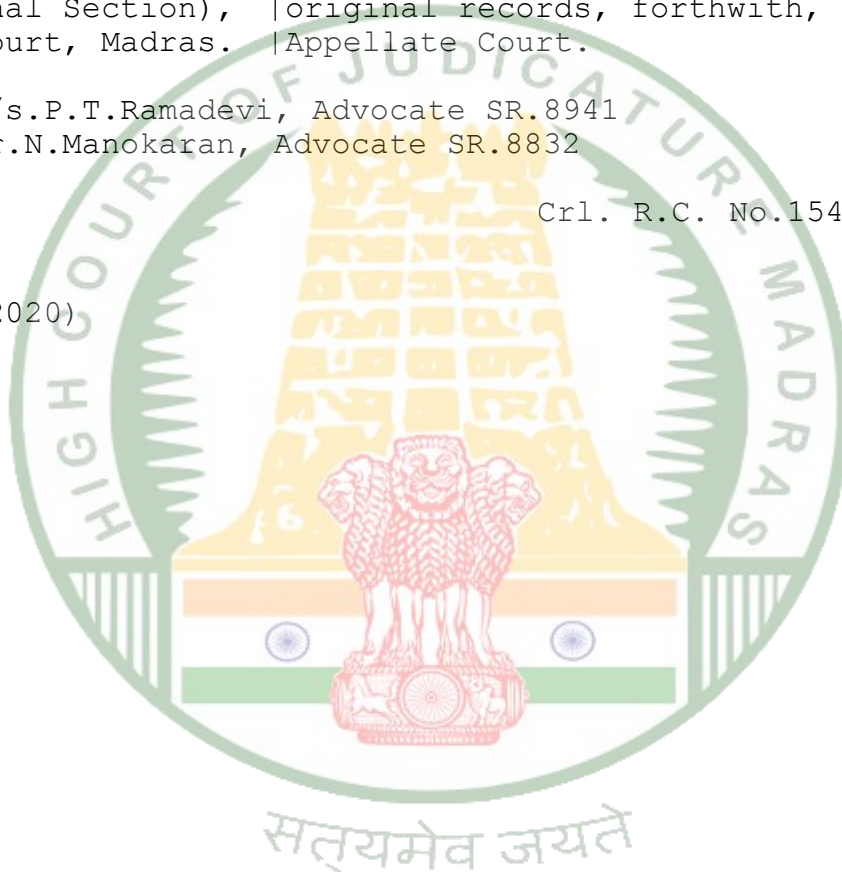
3.The Deputy Registrar |with a direction to send back the
(Criminal Section), |original records, forthwith, to the
High Court, Madras. |Appellate Court.

+1cc to M/s.P.T.Ramadevi, Advocate SR.8941

+1cc to Mr.N.Manokaran, Advocate SR.8832

Crl. R.C. No.1543 of 2013

SJ(CO)
CB(04/03/2020)



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