

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2020

CORAM

THE HONOURABLE Mr. JUSTICE R. MAHADEVAN

Cr1.R.C.No.705 of 2016

J.Jaikumar

... Petitioner

Vs.

V.S.Prakash

... Respondent

Criminal Revision filed under Section 397 read with Section 401 Cr.P.C. against the judgment in C.A.No.155 of 2015 dated 04.03.2016 on the file of the I Additional Sessions Judge, Erode, confirming the conviction and sentence in S.T.C.No.294 of 2014 on the file of the Judicial Magistrate, Fast Track Court No.1, Erode, dated 05.11.2015.

For Petitioner : Mr.S.Kamadevan

For Respondent : Mr.R.Rajarajan

ORDER

The petitioner herein is the accused and the respondent herein is the complainant. On a private complaint given by the complainant against the petitioner under Section 138 of the Negotiable Instruments Act, the same was taken on file as S.T.C.No.294 of 2014 on the file of the Judicial Magistrate, Fast Track Court No.1, Erode, and the accused was found guilty of the offence under Section 138 of the Negotiable Instruments Act and accordingly he was convicted under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for six months and to pay a fine of Rs.5,000/- in default to undergo simple imprisonment for 15 days. Challenging the same, the petitioner has preferred an appeal before the I Additional Sessions Judge, Erode, which ended in dismissal, against which the present Criminal Revision Case has been filed.

2.The learned counsel for the petitioner has submitted that the Courts below failed to appreciate that the petitioner had not committed the offence under Section 138 of the Negotiable Instruments Act and that the complainant had failed to establish a legally enforceable debt in respect of the amount covered by the cheque in question to the tune of Rs.5,00,000/-. It is also submitted that the Courts below erred in convicting the petitioner even though there is no evidence to show that there were business transactions between the petitioner and the respondent.

3.The learned counsel for the respondent has submitted that the Trial Court has considered the materials and evidence in proper perspective and has passed the impugned order and the same has been correctly confirmed by the Lower Appellate Court and hence the judgments of the Courts below do not require any interference in the hands of this Court.

4.Heard the learned counsel on either side and perused the papers.

5.After a threadbare analysis of the materials and evidence available on record, the Trial Court has observed that the cheque in question amounting to Rs.5,00,000/- has been given by the accused to the complainant only for a legally enforceable debt. Further, the Trial Court has given a finding that the cheque in question got bounced only due to insufficiency of funds and these aspects have been properly proved by the complainant beyond reasonable doubt.

6.The Trial Court has considered the materials and evidence in a proper perspective and has rendered the above factual findings. The Lower Appellate Court has also dealt with the case properly and correctly confirmed the findings rendered by the Trial Court on merits. This Court is not inclined to interfere with the said factual concurrent findings rendered by the Courts below.

7.In the result, the Criminal Revision Case is dismissed being devoid of merits. The Trial Court is directed to secure the accused and commit him in prison to undergo the remaining period of sentence, if any. If any amount has been deposited by the accused either in the appellate Court or in the Trial Court in connection with this case, the same shall be disbursed with accrued interest to the complainant or to his legal heirs, as the case may be. It is always open to the parties to file an application before the Trial Court under Section 147 of the Negotiable Instruments Act for compounding the offence, even after the accused is taken into custody. In the event of the

matter being compounded under Section 147, ibid, before the Trial Court, the Magistrate shall send a report to the Assistant Registrar (Crl.Side) of this Court, who shall make it form part of the records in Crl.R.C.No.705 of 2016. Registry is directed to transmit the original records if any, to the respective Courts forthwith.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

KM

To

- 1.The I Additional Sessions Judge, Erode.
- 2.The Judicial Magistrate, Fast Track Court No.1, Erode
- 3.The Public Prosecutor,
Madras High Court.
- 4.The Chief Judicial Magistrate, Erode.
- 5.The Assistant Registrar (Crl.side),
Criminal Section, High Court, Madras.

+1 CC to M/s. S.Kamadevan, Advocate, sr 17307

+1 CC to M/s. R.Rajaraman, Advocate, sr 17875

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Crl.R.C.No.705 of 2016

CP (CO)

AT (21/05/2020)