

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2020

CORAM:

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

Crl.R.C. No.632 of 2020 & Crl.M.P. No.4706 of 2020

R.K. Gopalraj @ Gopalraju

..Petitioner/2nd Accused/
Respondent/Complainant

vs.

1 K.C. Madheswaran

2 Bharani Processing Mills
represented by its
Managing Partner
R.K. Gopalraj @ Gopalraju
No.31/32 Golden City
Chinna Sengodampalayam
Thindal Post
Erode 638 012

..Respondents/1stPetitioner

Criminal Revision filed under Sections 397 and 401 Cr.P.C.
seeking to set aside the order dated 06.03.2020 passed by the
Principal Sessions Judge, Erode in Crl.M.P. No.2237 of 2019 in
Crl.A. No.112 of 2019.

For petitioner Mr. Sharath Chandran
For R1 Mr. J. Ranjith Kumar

ORDER

This case is taken up through video conferencing.

2 For the sake of convenience, the parties are referred
to by their names.

3 Gopalraj, and Bharani Processing Mills, represented by
Gopalraj, were convicted on 13.03.2019 in S.T.C. No.48 of 2015
initiated by Madheswaran in the Court of Judicial Magistrate
(F.T.C. No.1), Erode, under Section 138 of the Negotiable
Instruments Act, 1881 and Gopalraj was sentenced to undergo one
year simple imprisonment and pay the cheque amount of Rs.6 lakhs
as compensation to Madheswaran, in default to undergo two months
simple imprisonment. Challenging the said conviction and
sentence, Gopalraj and Bharani Processing Mills preferred
Crl.Appeal No.112 of 2019 before the Principal Sessions Court,
Erode. During the pendency of the said appeal, Gopalraj and
Bharani Processing Mills preferred a petition under Section 391

Cr.P.C. in CrI.M.P. No.2237 of 2019 for taking further evidence by the trial Court, which has been dismissed on 06.03.2020, aggrieved by which, Gopalraj alone has preferred the instant criminal revision petition.

4 Heard Mr. Sharath Chandran, learned counsel for Gopalraj and Mr.J. Ranjith Kumar, learned counsel for Madheswaran.

5 Mr. Sharath Chandran fairly conceded that Gopalraj had not made out a good case for examining the witnesses referred to in the petition filed before the appellate Court under Section 391 Cr.P.C. However, it is his further submission that Gopalraj should be permitted to examine himself as a witness in the light of the very recent judgment of the Supreme Court in APS Forex Services Pvt. Ltd. vs. Shakti International Fashion Linkers and Others¹.

6 The learned counsel for Madheswaran submitted that in the petition in CrI.M.P. No.2237 of 2019, Gopalraj had not asked for examining himself as a witness in the appellate Court and therefore, this Court cannot grant that relief in the instant criminal revision petition. This Court does find sufficient merit in the submission of the learned counsel for Madheswaran.

7 In view of the aforesaid submission made by Mr. Sharath Chandran, this criminal revision petition is dismissed. However, Gopalraj is at liberty to file a fresh application under Section 391 Cr.P.C. before the appellate Court for examining himself as a witness and the appellate Court shall decide the same on merits. Connected CrI.M.P. stands closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1 The Principal Sessions Judge
Erode
- 2 The Judicial Magistrate (Fast Track Court No.1)
Erode

+1cc to Mr.Govind Chandrasekar, Advocate in SR.28588

Crl.R.C. No.632 of 2020

PP (CO)
RV (22/09/2020)



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