

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.RC.No.1168 of 2020

S.Nandhagopal

.. Petitioner

/versus/

1.M/s.Print India Printings
No.115-A-1, P.P.Apartment,
Sakthi Nagar 4th Street
Thindal, Erode- 638 012.
Represented by its Partner
N.M.K.Mohamed Bilal
S/o.Kadar Moideen.

2.N.M.K.Mohamed Bilal
S/o.Kadar Moideen
Partner M/s.Print India Printings,
No.115-A-1, P.P.Apartment,
Sakthi Nagar 4th Street
Thindal, Erode- 638 012.

.. Respondents

Prayer: Criminal Revision Case filed under Section 397 r/w 401 of the code of Criminal Procedure, to set aside the order dated 24.10.2019 made in S.T.C.No.543 of 2018 on the file of the learned Judicial Magistrate, Fast Track Court No.II, Erode.

For Petitioner : Mr.M.Guruprasad

ORDER

The petitioner has filed a private complaint against M/s.Print India Printings and its partner N.M.K Mohamed Bilal, who were arrayed as A1 and A2 for the offence under Section 138 of Negotiable Instruments Act and the complaint has been taken on the file of the Judicial Magistrate, Fast Track Court No.II, Erode in S.T.C.No.443 of 2018.

2.The gist of the case is that the petitioner extended a loan of Rs.4,00,000/- to the respondents/accused M.N.K Mohammed Bilal, Proprietor of M/s. Print India Printings and to discharge the liability a cheque bearing No.027923 was issued by the respondents to the petitioner for a sum of Rs.4,00,000/- on 13.05.2020. When the cheque was presented in the bank, it was returned for the reason "account closed".

Thereafter following the statutory provision a complaint filed

before the Lower Court during September 2018. Private notice was ordered to the accused. In obedience to the same the petitioner had taken private notice on 22.07.2019 to the accused and the same could not be served since the notice returned for the reason "door locked". The notice along with the receipt of memo was made ready and inadvertently it was not filed before the Court at the date of hearing. The Lower Court by order dated 24.10.2019 dismissed the complaint under Section 204 (3) Cr.P.C for non-payment of process fee. Against which present revision.

3.The petitioner had produced the copy of the complaint, private notice, postal receipt, tracking details and memo. On perusal of the same, it is seen that the petitioner had taken steps to send private notice on 22.07.2019 and also prepared a memo with tracking sheet and inadvertently the same has not been filed before the Lower Court. In view of the same, this Court is inclined to set aside the order dated 24.10.2019 made in S.T.C.No.543 of 2018 on the file of the learned Judicial Magistrate, Fast Track Court No.II, Erode.

4.The relief sought by the petitioner was dismissed for non-compliance of Section 204(3) Cr.P.C. Private notice was taken by the petitioner and the accused failed to appear before the Court below. Hence, this Court dispense with the issuance of notice to the second respondent which would not cause any prejudice to the second respondent.

5. With the above observation, this Criminal Revision Case is allowed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rst

To

The Judicial Magistrate
Fast Track Court, No.II,
Erode.

+1 CC to Mr.M.Guruprasad, Advocate Sr.No.41169

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KP(19/01/2021)