

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2020

CORAM

THE HONOURABLE Mr. JUSTICE R. MAHADEVAN

Crl.R.C.No.598 of 2017

D.Baskaran

... Petitioner

Vs.

M.Ravisekar

... Respondent

Criminal Revision filed under Section 397 read with Section 401 Cr.P.C. seeking to set aside the judgment dated 24.03.2017 in Crl.A.No.45 of 2016 on the file of the Principal Sessions Judge, Kancheepuram District at Chengalpattu, confirming the judgment in C.C.No.130 of 2009 dated 19.09.2016 on the file of the Judicial Magistrate No.1, Chengalpattu, Kancheepuram District.

For Petitioner : Mr.D.N.Durgasha

For Respondent : Mr.Ravisekar

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 C.C.No.130 of 2009 on the file of the Judicial Magistrate No.1, Chengalpattu, and the accused was found guilty of the offence under Section 138 of the Negotiable Instruments Act and accordingly he was convicted under Sections 138 and 142 of the Negotiable Instruments Act and sentenced to undergo rigorous imprisonment for two years and to pay a sum of Rs.5,00,000/- being the cheque amount, as compensation to the complainant within one month, in default to undergo simple imprisonment for one month. Challenging the same, the petitioner has preferred an appeal before the Principal Sessions Judge, Kancheepuram District at Chengalpattu, 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 submitted that the Trial Court failed to note the contradictory versions of the evidences adduced by the witnesses on the side of 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 hence the same does 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 accused has not proved that the signature contained in the cheque is not his signature. Further, the Trial Court has given a finding that the petitioner has not proved that the cheque in question was handed over by him to the complainant only because of his brother's problem as regards jewels, and thus the presumption under Section 139 of the Negotiable Instruments Act is in favour of the complainant.

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.598 of 2017. Registry is directed to transmit the original records if any, to the respective Courts forthwith.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

KM

To

- 1.The Principal Sessions Judge,
Kancheepuram District, Chengalpattu.
 - 2.The Judicial Magistrate No.1,
Chengalpattu, Kancheepuram District.
 - 3.The Public Prosecutor,
Madras High Court.
 - 4.The Chief Judicial Magistrate,
Chengalpattu.
 - 5.The Assistant Registrar, Criminal Section,
High Court, Madras.
- +2CC to Mr.D.N.Durgasha, Advocate (SR.No.17430)

सत्यमेव जयते

Crl.R.C.No.598 of 2017

CP(CO)
BRI (20/05/2020)

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