



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl. R.C. (MD) No.313 of 2016

V.Raja

.. Petitioner/Appellant/Accused

Vs.

R.Sakthivel

.. Respondent/Respondent/Complainant

Prayer : This Criminal Revision is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records and allow the revision and set aside the conviction and sentence dated 10.10.2015 made in C.C.No.307 of 2014 on the file of the Judicial Magistrate, Fast Track Court at Magisterial Level, Karur, as confirmed by the Judgment dated 17.03.2016 made in Crl.A.No.85 of 2015 on the file of the Sessions Judge, Mahila Fast Track Court, Karur.

For Petitioner : Mr.N.Anandakumar

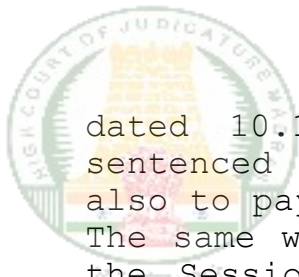
For Respondent : Mr.K.Balasubramani

ORDER

Heard the learned counsel on either side.

2. The respondent Sakthivel filed C.C.No.307 of 2014 on the file of the Judicial Magistrate, Fast Track Court, Karur, against the petitioner herein for the offences under Sections 138 r/w. 142 of the Negotiable Instruments Act.

3. The case of the complainant is that on 22.03.2013 the accused borrowed a sum of Rs.2,00,000/- from the complainant and towards repayment of the said amount, the complainant issued Ex.P.2 cheque for a sum Rs.2,00,000/-. The complainant presented the same on 02.04.2014 for collection through his bank, namely, The Lakshmi Vilas Bank Ltd., Vengamedu Branch. The cheque was returned unpaid for the reason "insufficient funds" in the account maintained by the accused. The complainant issued Ex.P.4 Legal Notice on 04.04.2014. This is evidenced by Ex.P.5. The accused did not give any reply nor did he comply with the demand set out in the legal notice. Therefore, the complainant filed C.C.No.307 of 2014. The complainant examined himself as P.W.1 and one Kamaraj was examined as P.W.2. Ex.P.1 to Ex.P.5 was marked. On the side of the accused, no evidence was adduced. The learned trial Magistrate vide Judgment



dated 10.10.2015 found the accused guilty of the offence and sentenced him to undergo Simple Imprisonment for four months and also to pay a fine of Rs.1,500/-. Default sentence was also imposed. The same was questioned by the accused in C.A.No.85 of 2015 before the Sessions Judge, Mahalir Fast Track Court, Karur. By Judgment dated 17.03.2016, the learned Sessions Judge partly allowed the appeal and reduced the sentence of imprisonment from four months Simple Imprisonment to one month Simple Imprisonment. Questioning the same, this criminal revision case came to be filed.

4. The learned counsel appearing for the petitioner reiterated all the contentions set out in the memorandum of grounds and wanted him to set aside the impugned judgment.

5. Per contra the learned counsel appearing for the complainant submitted that the impugned Judgment does not warrant any interference.

6. I carefully considered the rival contentions and went through the evidence on record.

7. It is seen that the complainant had also marked promissory note in original as Ex.P.1. Ex.P.1 was accepted by the accused. The signatures found in the promissory note as well as in the complaint cheque Ex.P.2 are not in dispute. Presumption under Section 139 of the Negotiable Instruments Act got triggered. The same could not be rebutted by the accused and therefore, the Court below rightly found the accused guilty of the offence in question.

8. I do not find any ground to interfere. Exercising my revisional jurisdiction, I am not persuaded to hold that the findings of the Courts below are vitiated by perversity or material irregularity.

9. The Judgment impugned in this criminal revision stand confirmed. This criminal revision case is dismissed.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1. The Sessions Judge,
Mahila Fast Track Court,
Karur.

2. The Judicial Magistrate,
Fast Track Court at Magisterial Level,
Karur.

Copy to: The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2)

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SS (CO)
CS (23.12.2020) 3P 5C