

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.123 of 2021
and
Crl.M.P.No.2431 of 2021

S.Parthasarathy ...Petitioner/Appellant/Accused

...vs...

Jayapal ...Respondent/Complainant

Criminal Revision Case filed under Section 397 Cr.P.C, to call for the records and set aside the order dated 03.12.2019 in Crl.M.P.No.6799 of 2019 in C.A.No.25 of 2018 against S.T.C.No.367 of 2016 passed by the Principal Sessions Judge, Tiruvallur.

For Petitioner : Mr.G.Sathishkumar

O R D E R

By consent of the learned counsel for the petitioner, the matter is taken up today for final disposal at the admission stage itself, without issuing notice to the respondent.

2.This Criminal Revision Case has been filed against the order dated 03.12.2019 in Crl.M.P.No.6799 of 2019 in C.A.No.25 of 2018 against S.T.C.No.367 of 2016 on the file of the learned Principal Sessions Court, Tiruvallur.

3.According to the petitioner/accused, the respondent/complainant filed a private complaint under Section 200 Cr.P.C against him for the offence under Section 138 of Negotiable Instruments Act (herein after referred to as 'N.I Act') before the learned Judicial Magistrate, Fast Track Court (Magisterial Level) Ambattur and the same was taken on file in S.T.C.No.367 of 2016. After due enquiry, the learned Magisterial by order dated 12.01.2018 convicted and sentenced the petitioner/accused under Section 138 of N.I Act and also directed him to pay Rs.2,50,000/- as compensation to the respondent/complainant. Aggrieved over the said order, the petitioner/accused preferred an appeal in Crl.A.No.25 of 2018 before the Principal District and Sessions Judge, Tiruvallur. During the pendency of the said appeal, he filed a petition in Crl.M.P.No.6799 of 2019 under Section 391 Cr.P.C seeking to receive additional documents i.e. certified copy of the mortgage deed, which was dismissed by the learned Sessions

Judge on 03.12.2019. Challenging the same, the present Criminal Revision Case.

4. The learned counsel for the petitioner would submit that without providing sufficient opportunity to the petitioner/accused to cross examine P.W.1, the learned Magistrate posted the case for defence side arguments and closed the trial and convicted the petitioner based on the evidence of the respondent/complainant. Challenging the said order, the petitioner preferred the appeal, which was pending before the Appellate Court and he also filed a petition under Section 391 Cr.P.C. The learned Sessions Judge failed to appreciate the affidavit filed by the petitioner and dismissed the petition, which warrants interference of this Court.

5. Heard the learned counsel for the petitioner and also perused the materials available on record.

6. Admittedly, the respondent/complainant filed a complaint against the petitioner/accused for the offence under Section 138 of N.I. Act. During the trial, the petitioner/accused cross examined the respondent/complainant (P.W.1) only in part. Subsequently, the accused sought adjournment and the case was adjourned for further cross examination of P.W.1 with cost. On payment of the said cost, it was posted for cross examination of P.W.1. Instead of cross examination, he filed a memo with respect to I.P.No.4 of 2017 and the case was again adjourned for producing the certified copy of the said IP petition. Thereafter, the case was posted for defence side arguments.

7. On a perusal of the records, it reveals that the learned Magistrate instead of providing sufficient opportunity i.e. for more than 4 or 5 hearings, the petitioner/accused has not cross examined the witnesses. Therefore, the learned Magistrate closed the evidence and subsequently, passed the order. Challenging the said order, the petitioner preferred appeal and also filed a petition under Section 391 Cr.P.C. The trial Court rightly appreciated the entire materials and dismissed the petition.

8. In view of the above facts, this Court finds that the petitioner/accused without proceeding the matter on merits, he is prolonging the matter. Therefore, this Court directs the petitioner to deposit the cheque amount to the credit of S.T.C.No.367 of 2016 on the file of the Fast Track Court (Magisterial Level) Ambattur on or before 16.03.2021. On such deposit, the order passed by the learned Sessions Judge is set aside and the petitioner is allowed to file additional documents to prove his case. The learned Principal Sessions Judge, Tiruvallur is directed to record the additional evidence or he can direct the learned Magistrate for recording the additional evidence and send it to the appellate Court and dispose of the matter in accordance with law. If the

petitioner fails to deposit the cheque amount within the stipulated time as stated above, this Criminal Revision case stands dismissed without further reference to this Court.

With the above direction, this Criminal Revision Case is disposed of .Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

Ms

To

- 1.The Principal Sessions Judge,
Tiruvallur.
- 2.The Fast Track Court (Magisterial Level)
Ambattur.

+1cc to M/s.G.Sathish Kumar, Advocate, SR.No.13575

CrI.R.C.No.123 of 2021
and
CrI.M.P.No.2431 of 2021

AAB (CO)
KKV/10/03/2021



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