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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.1256 of 2015
and
M.P.No.1 of 2015

S.Rajalakshmi

... Petitioner/Accused

.. Vs ..

S.Ravi

...Respondent/Complainant

Prayer :- Criminal Revision filed under Sections 397 and 401 of the Criminal Procedure Code, to set aside the order dated 18.08.2015 passed by the Principal District and Sessions Judge, Tiruvarur in Crl.A.No.14 of 2015 against the order dated 09.10.2014 in S.T.C.No.70 of 2013 on the file of the Fast Track Court, Thiruthuraipoondi.

For Petitioner : Mr.S.Arivazhagan

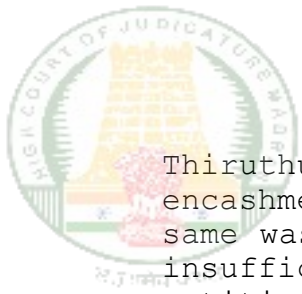
For Respondent : Mr.Prem Narayan
For M/s.Ravi Shanmugam

O R D E R

The respondent herein filed a private complaint in C.C.S.T.C.No.70/2013 before the learned Judicial Magistrate, Fast Track Court, Thiruthuraipoondi for the alleged offence under Section 138 of the Negotiable Instruments Act.

2. The scope of the revision in respect of the nature of the case is that unless there is a perversity or an error as to the legal preposition of law, the revision cannot be entertained.

3. Admittedly, P.W.1/1st respondent had filed a complaint under Section 138 of the Negotiable Instruments Act, alleging that the appellant had borrowed a sum of Rs.3,00,000/- from him on 07.07.2013 for constructing a house and issued Ex.P1 cheque in favour of the 1st respondent in cheque No.237869, dated 15.07.2013 for Rs.3,00,000/-, drawn on State Bank of India,



Thiruthuraipoondi Branch. When the cheque was presented for encashment before the Indian Bank, Thiruthuraipoondi Branch, the same was returned on the same day with Ex.P2 Memo stating "Funds insufficient". P.W.1 had issued Ex.P3 Advocate notice to the petitioner on 29.07.2013, which was received by him on 06.08.2013 and the acknowledgment card is marked as Ex.P4. Knowing very well that there are no sufficient funds in his account, the petitioner had issued Ex.P1 cheque to defraud the 1st respondent/complainant.

4. Furthermore, the appellant herein has not disputed the signature in Ex.P1 cheque and hence both the Courts below had rightly come to the conclusion that the respondent/complainant is entitled for presumption under the Negotiable Instruments Act and the said presumption has to be rebutted by the accused. The petitioner herein has not taken any steps to pay the cheque amount.

5. According to the petitioner, she is working as a Teacher in a Government School.

6. After receiving Ex.P3 notice, she has not given any reply which assumes significance. No positive evidence has been adduced before the Court to rebut the presumption and hence both the Courts below have rightly come to the conclusion that the cheque was issued for consideration of legally enforceable debt.

7. In the absence of any positive evidence, I do not find any perversity in the findings rendered by the Courts below. In this view of the matter, I find no merits in this revision.

8. Accordingly, this Criminal Revision Petition is dismissed. Consequently, connected M.P is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal District and Sessions Judge,
Tiruvarur



2. The Fast Track Court,
Thiruthuraipoondi.

+1cc to Mr.S.Arivazhagan, Advocate, S.R.No.36362

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M.P.No.1 of 2015

MG (CO)
CT(18/08/2021)