



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2021

CORAM :

THE HONOURABLE MS.JUSTICE R.N.MANJULA

Cr1.R.C.No.242 of 2016

Santhosh Raja

..Petitioner

Vs.

Senthil

..Respondent

PRAYER : Criminal Revision has been filed under sections 397 read with 401 of Criminal Procedure Code to set aside the Judgment dated 25.07.2014 in Summary Trial Case No.16 of 2013 passed by the Judicial Magistrate, Fast Track Court, Omalur and confirmed by judgment dated 11.01.2016 in C.A.No.102 of 2014 on the file of the 2nd Additional District and Sessions Court, Salem.

For Petitioner : Mr.B.Vijayakumar

For Respondent : Mr.R.Murugabharathi

ORDER

The learned counsel for the petitioner submitted that he is not able to contact the petitioner, since he does not response to him. He reported no instructions.

2. It is submitted that even while the criminal revision case was pending, a part of the cheque amount was paid by the petitioner to the respondent. The grounds on which the revision case has been filed is that the respondent did not have any means to lend the loan amount of Rs.3,90,000/- as claimed by him.

3. The fact remains that he is admitted his own liability and chosen to pay the payments to the respondent. It is also seen from the records that the respondent did not deny the execution of the impugned cheques. Once the execution is admitted, the natural corollary is to give the presumption in favour of the complainant that the cheque was issued only in pursuance of legally enforceable debt. The Courts below are rightly proceeded as per law in right perspective and found the



accused guilty for the offence under Section 138 of Negotiable Instruments Act. The initial presumption that the petitioner/accused has taken Rs.3,90,000/- as loan will become a conclusive proof, if the accused did not rebut the same.

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4. Therefore, I could not find any probable defence or preponderance of probabilities in favour of the petitioner/accused that the judgment of such does not warrant any interference.

5. In the result, the criminal revision case is dismissed. However, it is open to the parties to continue the settlement process, if any, in continuation of the part payment already made by the petitioner to the respondent.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rpl

To

1. The 2nd Additional District and Sessions Court, Salem.
2. The Judicial Magistrate, Fast Track Court, Omalur.

+lcc to M/s.R.Murugabharathi, Advocate, S.R.No.60804

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RGN(CO)
RGA(08/12/2021)