

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

**C.R.P.(PD) No. 1932 of 2018
and CMP. No.11186 of 2018**

P.Prabhu

...

Petitioner

Vs

S.Sankar

...

Respondent

Prayer :- Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the fair and decreetal order dated 17.04.2018 made in I.A.No.214 of 2017 in O.S.No.1 of 2017 on the file of the I Additional District Court, Salem.

For Petitioner : Mr.A.V.Arun

For Respondent : Mr.R.Marudhachalamurthy

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 17.04.2018 made in I.A.No.214 of 2017 in O.S.No.1 of 2017 on the file of the I Additional District Court, Salem, thereby allowing the petition to grant leave to defend the suit.

2. The petitioner is the plaintiff and the respondent is the defendant. The petitioner filed a suit for recovery of money on the strength of the cheques issued by the respondent herein. According to the petitioner, the respondent borrowed a sum of Rs.21,00,000/- on 01.11.2016 as hand loan in order to meet out his family expenses and business expenses. The respondent also assured that he will repay the loan within a period of 10 days. After lapse of 10 days, the petitioner demanded the respondent for repayment of loan. The respondent issued three cheques, each for a sum of Rs.7,00,000/-. All the cheques were presented for collection and the same were dishonoured with an endorsement "Refer to Drawer". On the strength of the cheques, the petitioner filed a suit for recovery of money. Whereas, the respondent filed a petition to leave to defend the suit and taken specific stand that the respondent never borrowed any amount as alleged in the plaint from the petitioner herein. The alleged cheques were never issued by the respondent to the petitioner. All the cheques were obtained by the petitioner at the police station under threat and coercion.

3. It is seen that except the cheques, the petitioner did not file any document and also did not issue any pre suit notice to the respondent. In fact, after dishonour of all the cheques, the petitioner also did not take any steps to proceed under the Negotiable Instruments Act. Therefore, the Court below rightly allowed the respondent to defend the suit in the manner known to law.

4. Accordingly, the Civil Revision Petition is dismissed. The respondent is directed to file his written statement within a period of two weeks from the date of receipt of copy of this order and the Court below is directed to dispose of the suit within a period of nine months from the date of receipt of a copy of this order. No order as to costs. Consequently, connected Miscellaneous Petition is closed.

सत्यमेव जयते

16.06.2021

lpp
Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No

To
The I Additional District Judge,
Salem.

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C.R.P.(P.D).No.1932 of 2018

G.K.ILANTHIRAIYAN.J,

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