



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 25.03.2021
CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.131 of 2021

and

Crl.M.P.(MD)No.1499 of 2021

K.Rangarajan

.. Petitioner

Vs.

V.Selvaraj

.. Respondent

Prayer : This criminal revision case filed under Sections 397 and 401 of Cr.P.C., to call for the records and to set aside the order passed by the Judicial Magistrate, Fast Track Court (Magistrate Level), Kovilpatti, in Cr.M.P.No.633 of 2020, in C.C.No.32 of 2013, by order dated 28.12.2020.

For Petitioner : Mr.S.Ramasamy

For Respondent : Mr.S.Selvakumar

ORDER

This Criminal Revision Case has been filed to set aside the order, dated 28.12.2020, made in Cr.M.P.No.633 of 2020, in C.C.No.32 of 2013, on the file of the Judicial Magistrate, Fast Track Court (Magistrate Level), Kovilpatti.

2.The revision petitioner is the accused and the respondent is the defacto complainant in C.C.No.32 of 2013. The respondent herein filed three cases against the petitioner in C.C.Nos.32, 33 and 34 of 2013. The revision petitioner filed a petition in Cr.M.P.No.633 of 2013 in C.C.No.32 of 2013, to send the cheque for expert opinion. That petition was dismissed by the Judicial Magistrate, Fast Track Court (Magistrate Level), Kovilpatti. Against the same, the petitioner preferred this Criminal Revision.

3.On the side of the revision petitioner, it is stated that the petitioner did not borrow any amount from the respondent / defacto complainant. He has recommended, one Sundarrajan, who borrowed a sum of Rs.5,00,000/- (Rupees Five Lakhs only) from the Financial Company, in which, the defacto complainant is working. Since the said Sundarrajan has failed to repay the amount, the cheque was misused by the respondent / defacto complainant and the respondent / defacto complainant filed three criminal cases against the petitioner. The petitioner has to prove that no service order was passed on the basis of the cheque. The blank



cheque was filled up by the respondent / defacto complainant and the entries should be compared with the challan. The revision petitioner can prove that the empty cheque was filled up by the respondent / defacto complainant and prayed the petition to be allowed.

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4. On the side of the respondent, it is stated that there was no Presiding Officer in the Court for the past four years and only to drag on the case, the petitioner has filed this Revision. The revision petitioner has admitted his signature in the cheque leaf. The revision petitioner filed this revision against the dismissal of Cr.M.P.No.633 of 2020 and the petitioner filed a Criminal Original Petition. When the accused admits the signature and the issuance of the cheque, the accused is indirectly admitting the entries in the cheque under Section 20 of the Negotiable Instruments Act and the respondent / defacto complainant is entitled to fill up the cheque and prayed the petition to be dismissed.

5. It is seen that the revision petitioner has accepted the signature in the cheque leaf. Section 20 of the Negotiable Instruments Act, is as follows:-

Where one person signs and delivers to another a paper stamped in accordance with the law relating to negotiable instruments then in force in India, and either wholly blank or having written thereon an incomplete negotiable instrument, he thereby gives prima facie authority to the holder thereof to make or complete, as the case may be, upon it a negotiable instrument, for any amount specified therein and not exceeding the amount covered by the stamp. The person so signing shall be liable upon such instrument, in the capacity in which he signed the same, to any holder in due course for such amount. Provided that no person other than a holder in due course shall recover from the person delivering the instrument any thing in excess of the amount intended by him to be paid thereunder.

6. On the side of the respondent a judgment of the Hon'ble Supreme Court in ***Bir Singh Vs. Mukesh Kumar (Criminal Appeal Nos.230-231 of 2019)***, is cited, wherein, it is stated as follows:-

"A meaningful reading of the provisions of the Negotiable Instruments Act including, in particular, Sections 20, 87 and 139, makes it amply clear that a person who signs a cheque and makes it over to the



rebut the presumption that the cheque had been issued for payment of a debt or in discharge of a liability. It is immaterial that the cheque may have been filled in by any person other than the drawer, if the cheque is duly signed by the drawer. If the cheque is otherwise valid, the penal provisions of Section 138 would be attracted. If a signed blank cheque is voluntarily presented to a payee, towards some payment, the payee may fill up the amount and other particulars. This in itself would not invalidate the cheque. The onus would still be on the accused to prove that the cheque was not in discharge of a debt or liability by adducing evidence. It is not the case of the respondent-accused that he either signed the cheque or parted with it under any threat or coercion. Nor is it the case of the respondent-accused that the unfilled signed cheque had been stolen. The existence of a fiduciary relationship between the payee of a cheque and its drawer, would not disentitle the payee to the benefit of the presumption under Section 139 of the Negotiable Instruments Act, in the absence of evidence of exercise of undue influence or coercion. The second question is also answered in the negative. Even a blank cheque leaf, voluntarily signed and handed over by the accused, which is towards some payment, would attract presumption under Section 139 of the Negotiable Instruments Act, in the absence of any cogent evidence to show that the cheque was not issued in discharge of a debt."

7.The petitioner has filed this petition after seven years from the date of filing of the private complaint in C.C.No.32 of 2013. Only to drag on the case, the petitioner has come forward with this petition. When the signature and issuance of cheque are admitted by the petitioner, there is no necessity to send the entries for expert opinion.

8.In the above circumstances, there is nothing sufficient enough to interfere with the order of the Judicial Magistrate and hence, this Criminal Revision Case is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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 Judicial Magistrate,
Fast Track Court (Magistrate Level),
Kovilpatti, Thoothukudi.
2. The Section Officer, (2 COPIES)
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

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VB (04/05/2021) 4P / 4C