



Crl.R.C.No.142 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.09.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYANL**

Crl.R.C.No.142 of 2018

and

Crl.M.P.No.1047 of 2018

1. K.P.Kumaran
2. K.Ananda Jothi
3. K.Suganya

.... Petitioners

Vs

P.Krishnan

.... Respondent

Prayer: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C, to call for the records in Crl.M.P.No.100 of 2017 in C.A.No.9 of 2017 on the file of the learned I Additional District and Sessions Judge at Erode and set aside the order in Crl.M.P.No.100 of 2017 dated 08.09.2017 and thereby permit the petitioner to adduce additional evidence.

For Petitioner : Mr.R.Ganesh Kumar

ORDER

This Criminal Revision Case has been filed to set aside the order dated 08.09.2017 passed in Crl.M.P.No.100 of 2017 in C.A.No.9 of 2017 on the file of the learned I Additional District and Sessions Judge at Erode, thereby



dismissed the petition filed under Section 391 of Cr.P.C.

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2. The petitioners are accused in the complaint lodged by the respondent herein for the offence punishable under Section 138 of Negotiable Instruments Act.

3. Before the Trial Court, the respondent examined P.W.1 and marked Exs.P1 to P7. On the side of the petitioners, they examined D.Ws.1 & 2 and marked Ex.D1.

4. On perusal of the oral and documentary evidence, the Trial Court found the petitioners guilty for the offence punishable under Section 138 of Negotiable Instruments Act and sentenced them to undergo simple imprisonment for a period of six months. The Trial Court awarded compensation of Rs.4,00,000/- payable by the petitioners herein to the respondent. Aggrieved by the same, the petitioners filed Criminal Appeal in C.A.No.9 of 2017 on the file of the Principal District and Sessions Court, Erode. Pending appeal, the petitioners filed a petition in Crl.M.P.No.100 of 2017 under Section 391 of Cr.P.C., seeking permission to mark certain important documents through D.W.2, which were not marked before the Trial Court.



5. A perusal of the records reveals that the petitioners are arrayed as A1 to A3. Before the Trial Court, the respondent was examined P.W.1 and the petitioners were examined D.Ws.1 & 2. Pending appeal, the petitioners filed a petition under Section 391 of Cr.P.C., to permit the petitioners to mark some more important documents through D.W.2, which were not marked before the Trial Court. The petitioners did not whisper as to what are all the documents he did not mark through D.W.2. Before the Trial Court, they fully examined D.W.2 and they marked only reply notice and no other document was marked before the Trial Court. Thereafter, the petitioners filed a petition under Section 391 of Cr.P.C., which is nothing but only to drag on the proceedings. However, they also examined D.W.1 before the Trial Court. There is no circumstances warranting to grant permission for the petitioners to re-examine D.W.2 that too for marking important documents which were not at all disclosed by the petitioners either before the Trial Court or before this Court. That apart, the appeal is pending before the Court from the year 2017.

6. In view of the above, this Court finds no infirmity or illegality in the order dated 08.09.2017 passed in Crl.M.P.No.100 of 2017 in C.A.No.9 of 2017 on the file of the learned I Additional District and Sessions Judge at Erode.



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Accordingly, this Criminal Revision Case stands dismissed. However, the Trial Court is directed to dispose of the appeal within a period of twelve weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

28.09.2022

Internet:Yes
Index:Yes/No
Speaking/Non speaking order
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To

The I Additional District and Sessions Judge,
Erode



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