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Crl.R.C.Nos.353 to 356 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2022

CORAM:

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

Crl.R.C.Nos.353 to 356 of 2018

K.B.Raju Petitioner in all Cr.R.Cs

Vs

Mittalal
Sumangali Textiles,
Sarathi Maligai,
Vellore – 632 004. Respondent in
Crl.R.C.No.353 of 2018

1.C.Ravichandran
S/o.Chinnakolandai.

2. R.Savithri
W/o.C.Ravichandran ... Respondents in
Crl.R.C.No.354 of 2018

1. M.Jayanthi
W/o.Mittalal

2. Mittalal
Sumangali Textiles,
Sarathi Maligai,
Vellore – 632 004. Respondents in
Crl.R.C.Nos.355 & 356 of 2018



Prayer in Crl.R.C.No. 353 of 2018 : Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C, to allow the Criminal Revision Petition setting aside the Judgment of the learned I Additional District and Sessions Judge, Vellore, dated 17.09.2014 in Criminal Appeal No.100 of 2012 confirming the Judgment of the learned Judicial Magistrate (Fast Track Court), Vellore dated 19.03.2012 in C.C.No.21 of 2011 and to order the complaint as prayed for.

Prayer in Crl.R.C.No. 354 of 2018 : Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C, to allow the Criminal Revision Petition setting aside the Judgment of the learned I Additional District and Sessions Judge, Vellore, dated 01.12.2014 in Criminal Appeal No.43 of 2012 confirming the Judgment of the learned Judicial Magistrate (Fast Track Court), Vellore dated 12.01.2012 in C.C.No.20 of 2011 and to order the complaint as prayed for.

Prayer in Crl.R.C.No. 355 of 2018 : Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C, to allow the Criminal Revision Petition setting aside the Judgment of the learned I Additional District and Sessions Judge, Vellore, dated 17.09.2014 in Criminal Appeal No.99 of 2012 confirming the Judgment of the learned Judicial Magistrate (Fast Track Court), Vellore dated 19.03.2012 in C.C.No.95 of 2011 and to order the complaint as prayed for.

Prayer in Crl.R.C.No. 356 of 2018 : Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C, to allow the Criminal Revision Petition setting aside the Judgment of the learned I Additional District and Sessions Judge, Vellore, dated 17.09.2014 in Criminal Appeal No.101 of 2012 confirming the Judgment of the learned Judicial



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Magistrate (Fast Track Court), Vellore dated 19.03.2012 in C.C.No.94 of 2011 and to order the complaint as prayed for.

In all Crl.R.Cs

For Petitioner : Mr.T.M.Hariharan

For Respondent : Mr.M.Aravind Kumar

COMMON ORDER

Crl.R.C.No.353 of 2018 has been filed to set aside the Judgment dated 17.09.2014 passed in C.A.No.100 of 2012 by the learned I Additional District and Sessions Judge, Vellore, thereby confirming the Judgment dated 19.03.2012 passed in C.C.No.21 of 2011 by the learned Judicial Magistrate (Fast Track Court), Vellore.

2. Crl.R.C.No.354 of 2018 has been filed to set aside the Judgment dated 09.12.2014 passed in C.A.No.43 of 2012 by the learned I Additional District and Sessions Judge, Vellore, thereby confirming the Judgment dated 12.01.2012 passed in C.C.No.20 of 2011 by the learned Judicial Magistrate (Fast Track Court), Vellore.

3. Crl.R.C.No.355 of 2018 has been filed to set aside the Judgment dated 17.09.2014 passed in C.A.No.99 of 2012 by the learned I Additional District and Sessions Judge, Vellore, thereby confirming the



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Judgment dated 19.03.2012 passed in C.C.No.95 of 2011 by the learned Judicial Magistrate (Fast Track Court), Vellore.

4. Crl.R.C.No.356 of 2018 has been filed to set aside the Judgment dated 17.09.2014 passed in C.A.No.101 of 2012 by the learned I Additional District and Sessions Judge, Vellore, thereby confirming the Judgment dated 19.03.2012 passed in C.C.No.94 of 2011 by the learned Judicial Magistrate (Fast Track Court), Vellore.

5. In all the revisions, the petitioner is the complainant. He filed a complaint for the offence punishable under Section 138 of Negotiable Instrument Act as against the respondents, alleging that the respondents borrowed a loan for their respective business purpose. In order to repay the said loan, they issued cheques. When the cheques were presented for collection, the same were returned on the ground that “account closed”. After issuance of notice as contemplated under Section 138 of Negotiable Instrument Act, the petitioner filed the complaints.



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6. On the side of the complainant, he examined P.Ws.1 and 2 and marked Exs.P1 to P8. On the side of the accused, the respective bank Manager was examined as D.W.1 and marked Exs.D1and D2.

7. On perusal of the oral and documentary evidence, the Trial Court found that the petitioner failed to prove his case and acquitted the respondent. Aggrieved by the same, the petitioner preferred an appeal and the same was dismissed and the order of the Trial Court was confirmed.

8. On perusal of Exs.P1 and P2, it is found that it does not contain the signatures of the witnesses or the particulars of scribe. No reason has been assigned for not giving even the particulars of scribe. According to the accused, Exs.P1 and P2, the principal debtor is one Vijay. Whereas, the accused is co-borrower. Therefore, it is clear that the loan was not incurred by the accused, one Vijay had borrowed the money along with the respondent. Therefore, for the purpose of complaint, the petitioner misused the promissory note jointly executed by one Vijay. Further



according to the complainant, the respondent borrowed a sum of Rs.4,50,000/- , whereas, the cheque was issued for a sum of Rs.5,00,000/-. It is not a case of the petitioner that the cheque was issued with interest. Therefore, it is seen that the cheque was not issued for any legally enforceable debt. In fact, the respondent also filed a memo giving notice to the complainant to produce account books and other related documents, the petitioner failed to produce the same. Therefore, the Trial Court had drawn adverse inference as against the petitioner. Further, the cheque was issued on 07.02.2007, whereas it was presented for collection on 15.06.2007. There is absolutely no explanation from the petitioner for the delay in presentation of the cheque. Therefore, the Courts below rightly dismissed the complaint and the same was confirmed by the Appellate Court.

9. In view of the above, this Court finds no infirmity or illegality in the order passed by the Courts below. Accordingly, this Criminal Revision Case stands dismissed.



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10. The petitioner is the complainant. The petitioner filed a complaint for the offence punishable under Section 138 of Negotiable Instrument Act as against the respondent. The case of the petitioner is that the accused borrowed a loan and in order to repay the said loan, they issued cheque for the said loan. When it was presented for collection, the same was returned as dishonoured for the reason “fund insufficient”. After causing statutory notice, the petitioner filed a complaint for the offence punishable under Section 138 of Negotiable Instrument Act as against the respondent.

11. On the side of the petitioner, he examined P.Ws. 1 & 2 and marked Exs.P1 to P18. On the side of the respondents, they examined D.Ws.1 to 4 and marked Exs.D1 to D17.

12. On perusal of the oral and documentary evidence, the Trial Court found that the petitioner failed to prove his case and acquitted the respondents. Aggrieved by the same, the petitioner preferred an appeal and the same was dismissed and the order of the Trial Court was



confirmed.

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13. On perusal of the records, a specific case of the respondents is that Ex.P1 to P9 were taken from the petrol bunk, run by the first respondent herein. Therefore, the first respondent lodged a complaint with Taluk Police Station. After completion of investigation, the charge sheet also filed as against the petitioner herein for misusing the blank signed documents.

14. In support of their contention, the respondents were examined as D.Ws. 1 to 4 and marked Exs.D2 to D17. Further, the petitioner did not even whisper about the promissory notes at the time of his evidence, however, he marked the same. The petitioner did not even mention in the complaint and in the sworn statement that when the accused borrowed money and the dates when the accused has executed the promissory notes. There is no pleadings to show as to who is the principal borrower and who is the person discharging the loan amount. According to Exs.P1 to P7, they were executed by the proprietor of Rohini Agencies. The complaint is not filed against the proprietor of Rohini Agencies as an



accused and it is not described that the first accused is the proprietor of Rohini Agencies. The second accused is not the proprietor of Rohini Agencies and she is not connected with the transactions between the complainant and Rohini Agencies. There is no documents to that effect Therefore, the petitioner miserably failed to prove his case and both the Courts below rightly dismissed the complaint.

15. In view of the above, this Court finds no infirmity or illegality in the order passed by the Courts below. Accordingly, this Criminal Revision Case stands dismissed.

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16. The petitioner is the complainant and the respondents are the accused. The petitioner lodged a complaint for the offence punishable under Section 138 of Negotiable Instrument Act alleging that the respondent borrowed a sum of Rs.1,75,000/- and executed promissory note. In order to discharge the said loan, they issued cheque. When it was presented for collection, the same was returned for the reason 'account closed'. After causing statutory notice, the petitioner lodged a complaint.



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17. On the side of the complainant, he examined P.Ws.1 and 2 and marked Exs.P1 to P9. On the side of the accused, the respective bank Manager was examined as D.W.1 and marked Exs.D1and D4.

18. On perusal of the oral and documentary evidence, the Trial Court found that the petitioner failed to prove his case and acquitted the respondents. Aggrieved by the same, the petitioner preferred an appeal and the same was dismissed and the order of the Trial Court was confirmed.

19. On perusal of Exs.P1 and P2, it is found that it does not contain the signatures of the witnesses or the particulars of scribe. No reason has been assigned for not giving even the particulars of scribe. According to the accused, Exs.P1 and P2, the principal debtor is one Vijay. Whereas, the accused is co-borrower. Therefore, it is clear that the loan was not incurred by the accused, one Vijay had borrowed the money along with the respondent. Therefore, for the purpose of complaint, the petitioner misused the promissory note jointly executed by



the respondents along with one Vijay. Further according to the complainant, the respondent borrowed a sum of Rs.4,50,000/- , whereas, the cheque was issued for a sum of Rs.5,00,000/-. It is not a case of the petitioner that the cheque was issued with interest. Therefore, it is seen that the cheque was not issued for any legally enforceable debt. In fact, the respondents also filed a memo giving notice to the complainant to produce account books and other related documents, the petitioner failed to produce the same. Therefore, the Trial Court had drawn adverse inference as against the petitioner. Further, the cheque was issued on 07.02.2007, whereas it was presented for collection on 15.06.2007. There is absolutely no explanation for the petitioner for the delay in presentation of the cheque. Therefore, the Courts below rightly dismissed the complaint and the same was confirmed by the Appellate Court.

20. In view of the above, this Court finds no infirmity or illegality in the order passed by the Courts below. Accordingly, this Criminal Revision Case stands dismissed.

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21. The petitioner is the complainant and the respondents are the accused. The petitioner lodged a complaint for the offence punishable under Section 138 of Negotiable Instrument Act alleging that the respondent borrowed a sum of Rs.2,75,000/- and executed promissory note. In order to discharge the said loan, they issued cheque. When it was presented for collection, the same was returned for the reason 'account closed'. After causing statutory notice, the petitioner lodged a complaint.

22. On the side of the complainant, he examined P.Ws.1 and 2 and marked Exs.P1 to P9. On the side of the accused, the respective bank Manager was examined as D.W.1 and marked Exs.D1 and D5.

23. On perusal of the oral and documentary evidence, the Trial Court found that the petitioner failed to prove his case and acquitted the respondents. Aggrieved by the same, the petitioner preferred an appeal and the same was dismissed and the order of the Trial Court was confirmed.



24. On perusal of Exs.P1 and P2, it is found that it does not contain the signatures of the witnesses or the particulars of scribe. No reason has been assigned for not giving even the particulars of scribe. According to the accused, Exs.P1 and P2, the principal debtor is one Vijay. Whereas, the accused is co-borrower. Therefore, it is clear that the loan was not incurred by the accused, one Vijay had borrowed the money along with the respondent. Therefore, for the purpose of complaint, the petitioner misused the promissory note jointly executed by the respondent along with one Vijay. Further according to the complainant, the respondent borrowed a sum of Rs.4,50,000/-, whereas, the cheque was issued for a sum of Rs.5,00,000/-. It is not a case of the petitioner that the cheque was issued with interest. Therefore, it is seen that the cheque was not issued for any legally enforceable debt. In fact, the respondent also filed a memo giving notice to the complainant to produce account books and other related documents, the petitioner failed to produce the same. Therefore, the Trial Court had drawn adverse inference as against the petitioner. Further, the cheque was issued on 07.02.2007, whereas it was presented for collection on 15.06.2007. There is absolutely no explanation for the petitioner for the delay in



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presentation of the cheque. Therefore, the Courts below rightly dismissed the complaint and the same was confirmed by the Appellate Court.

25. In view of the above, this Court finds no infirmity or illegality in the order passed by the Courts below. Accordingly, this Criminal Revision Case stands dismissed.

26.09.2022

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

1. The I Additional District and Sessions Judge,
Vellore,

2. The Judicial Magistrate,
Fast Track Court,
Vellore.

G.K.ILANTHIRAIYAN. J.



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