IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 08.04.2022
PRONOUNCED ON : 18.04.2022
CORAM :

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.R.C.No.401 of 2022
and Crl.M.P.No.4114 of 2022

R.Jayanthi	...	Petitioner / Accused

versus

S.Shanthi	...	Respondent / Complainant

PRAYER: Criminal Revision Petition has been filed under Section 397 & 401 of the Code of Criminal Procedure, praying to set aside the order dated 20.01.2022 made in Crl.M.P.No.1044 of 2021 in C.A.No.15 of 2017 passed by the learned Additional District and Sessions Judge, Chengalpattu.

For Petitioner : Mr.L.Ramu

O R D E R

The present Criminal Revision Petition has been filed, praying to set aside the order dated 20.01.2022 made in Crl.M.P.No.1044 of 2021 in C.A.No.15 of 2017 passed by the learned Additional District and Sessions Judge, Chengalpattu.

2. The case of the petitioner is that the petitioner is an accused in C.C.No.453 of 2013 on the file of the learned Judicial Magistrate, Tambaram, which has been filed as against her alleging that she committed an offence punishable under Section 138 of the Negotiable Instruments Act, 1881. The learned Judicial Magistrate, after elaborate trial, found the petitioner guilty for the offence under Section 138 of the Negotiable Instruments Act, convicted and sentenced her to undergo Simple Imprisonment for 6 months and to pay a compensation of Rs.6,50,000/- to the complainant.

3. Challenging the same, the petitioner herein has preferred an appeal in C.A.No.15 of 2017 on the file of the learned Additional District and Sessions Judge, Chengalpattu.

4. While at the time, the appeal was pending before the said Court, the petitioner has filed a petition under Section 391 of Cr.P.C. in Crl.M.P.No.1044 of 2021 wherein she prayed for direction to direct the bank authorities to produce the bank statement pertains to the account of the respondent, maintained in Indian Bank, Chitlapakkam Branch. The learned Additional District and Sessions Judge, by order dated 20.01.2022, dismissed the said petition. Against which, the revision petitioner is before this Court with the present Criminal Revision Petition.

5. Heard the learned counsel appearing for the revision petitioner.

6. The learned counsel appearing for the revision petitioner would contend that, before the first Appellate Court, the petitioner, in order to prove the fact that the respondent is not having the source to lend a sum of Rs.6,00,000/- to the petitioner filed the said application. He would further submit that only in the circumstances on seeing the bank statement, we have to finalise whether the respondent is having the source to lend the said amount. But the first Appellate Court, without considering the same, in perspective manner, dismissed the said petition. Hence, the said order, is erroneous and liable to be set aside.

7. Now, on considering the said submissions with the relevant records, in the impugned order, in para no,7, the first Appellate Court has categorically held that, the amount of loan alleged to be availed by the petitioner, is a hand loan and therefore, there is no necessity to find out whether the said amount was drawn from her bank account.

8. In the said circumstances, on going through the copy of the complaint filed before the trial Court, the respondent / complainant has categorically held that during the relevant point of time, she gave hand loan of Rs.6,00,000/- to the petitioner. Therefore, obviously without any evidence to show that the amount has been drawn by the respondent / complainant from the bank, it would not necessary to send for the bank statement, here it is a case, during the time of giving evidence before the trial Court, the respondent has not stated that the loan amount was drawn from her bank account.

9. Therefore, in view of the same, I am of the considered opinion that, the impugned order 20.01.2022 passed by the learned Additional District and Sessions Judge, Chengalpattu, is having much reasoning, in otherwise, there is no necessity to interfere in the said impugned order.

10. Resultantly, this Criminal Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sri

To

The Additional District and Sessions Judge,
Chengalpattu.

Crl.R.C.No.401 of 2022
and Crl.M.P.No.4114 of 2022

RR(CO)
A.SK(28/04/2022)