

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2022

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CRL.R.C.NO.553 OF 2014

V.Ramesh

... Petitioner

Vs.

1.S.N.Devaraju [Died]
2.Gopi
3.Jayapal
4.Sampath
5.Balakrishna
6.Manjula
7.Vamshidev
8.Pavanraj

[R2 to R8 impleaded as per order
in Crl.R.C.No.553/2014 dated 20.12.2021]

... Respondents

PRAYER : Criminal Revision Case has been filed under sections 397 read with 401 of Criminal Procedure Code to set aside the concurrent judgment and sentence dated 01.04.2013 passed in Criminal Appeal No.71 of 2012 on the file of Principal District and Sessions Judge, Krishnagiri against the judgment dated 30.10.2012 passed in S.T.C.No.2 of 2011 on the file of Judicial Magistrate / Fast Track Court, Hosur.

For Petitioner	:	Mr.C.Samivel for Mr.T.Arulraj
For Respondents	:	Mr.J.Hariharan for Mr.V.Nicholas

ORDER

Heard the learned counsel for the revision petitioner and the learned counsel for the respondents.

2. This Criminal Revision Case is filed against the concurrent finding of the Courts below for a private complaint filed under Section 138 of Negotiable Instruments Act.

3. The case of the complainant / respondent is that the accused known to him for the past 10 years and he was a tenant under him. To improve his business, he has received Rs.9,00,000/- as hand loan and gave a post dated cheque, dated 19.07.2010. On presentation of the cheque it was returned as 'Funds Insufficient'. After causing statutory notice, a private complaint has been filed for action under Section 138 of N.I.Act.

4. The accused took specific defends stating that on 20.03.2010, he entered into a rental agreement with the complainant in respect of the shop premises owned by the complainant and as per the terms of the rental agreement, the rent was fixed at the rate of Rs.100 per day and an advance of Rs.20,000/- has been agreed to pay. In view of the advance, a blank cheque drawn at IDBI bank bearing No.001227 was issued to the complainant, the said cheque has been misused by the complainant and filled it for Rs.9,00,000/- instead of Rs.20,000/- and to discharge the same, the subject cheque was issued. Since the specific defence was taken by the accused, the very genuineness of the rental agreement was denied by the complainant. Hence the disputed agreement was sent for examination of handwriting expert. The expert attached to the State Forensic Laboratory dated 24.07.2012 stating that the questioned signature found in the rental agreement differs from the standard signature i.e., the signature of the complainant.

5. Therefore, on considering the other facts and the clear opinion of the handwriting expert, that the alleged rental agreement is forged one created by the accused to make a false defence, held that the accused is liable to be punished under Sections 138 r/w. 142 of N.I.Act. Accordingly the accused was imposed sentence to undergo Simple Imprisonment for a period of six months and to pay a compensation of Rs.9,10,000/- to the complainant; in default of payment, Simple Imprisonment for one month.

6. The judgment of conviction and sentence was challenged by the accused before the Principal District and Sessions Judge, Krishnagiri in Crl.A.No.71 of 2012. The appellate Court confirmed the conviction and sentence passed by the trial Court.

7. In the revision, it is canvased that the Courts below erred in appreciating the evidence particularly Ex.D1 / the Rental agreement and the purported signature of the accused and the complainant which states about the blank cheque bearing No.001227 issued by the accused drawn at IDBI bank, whereas, having established that the blank cheque was given as a security

towards the rental agreement advance, the Courts below have erred that the subject cheque was given in order to discharge an enforceable debt.

8. This Court finds that there is no such error as pleaded in the petition. The so called defence projected by the accused is found to be false and he has taken a fake defence relying upon a fabricated document.

9. In the light of Ex.P.10 - the expert opinion, about the signature in the agreement / Ex.D.1, which clearly states that the signature found in the agreement is not that of the complainant. Having knowingly produced the fabricated document in the name of rental agreement as if the same was entered into between the complainant and the petitioner, the petitioner herein has attempted to escape from the criminal liability. However, through the scientific evidence the fabrication of the document is proved by the complainant, which has led to discard Ex.D1 viz., rental agreement and to hold the petitioner guilty of offence under Section 138 of N.I.Act and as on date the accused has failed to rebut the presumption under Section 139 of N.I.Act.

10. This Court finds no error in the finding of the Courts below. Hence, this Criminal Revision Case is dismissed. It is open to the complainant herein to proceed against the petitioner for perjury, if he chooses to do so.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

rpl

To

1. The Principal District and Sessions Judge, Krishnagiri.

2. The Judicial Magistrate / Fast Track Court, Hosur.

+1cc to Mr.C.Samivel, Advocate, S.R.No.40383

+1cc to M/s.V.Nicholas, Advocate, S.R.No.40792

Cr1.R.C.No.553 of 2014

AD(CO)
RLP(15/07/2022)