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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.R.C.NO.1147 OF 2017

AND

CRL.M.P.NO.12875 OF 2017

Abarnasri

... Petitioner/
Appellant/ Accused

Versus

Mohan Balaji

... Respondent/
Respondent/ Complainant

PRAYER :

Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. to set aside the judgment and conviction dated 27.07.2017 made in C.A.No.36 of 2017 on the file of I Additional District and Sessions Judge, Erode confirming the judgment dated 30.01.2017 made in S.T.C.No.1 of 2016 on the file of Judicial Magistrate (F.T.C.No.II), Erode.

For Petitioner : Mr.C.S.Saravanan

For Respondent : Mr.G.Pavendhan

O R D E R

The petitioner is the accused in STC.No.1 of 2016. The respondent filed a private complaint under Section 138 of the Negotiable Instruments Act against the petitioner before the learned Judicial Magistrate, Fast Track Court No.II, Erode.

2. The learned Judicial Magistrate, Fast Track Court No.II, Erode by Judgment dated 30.01.2017 convicted the petitioner and sentenced to undergo one year SI and pay a fine of Rs.5,000/-. Aggrieved against the same, the petitioner preferred an appeal before the Sessions Court. The I Additional District and Sessions Judge, Erode dismissed the Crl.A.No.36 of 2017 by the judgment dated 27.07.2017 confirming the conviction of the trial



Court against which the present revision is filed.

3. The contention of the petitioner is that the trial Court as well as the lower appellate Court wrongly convicted the petitioner merely on the presumption that the signature found in the cheques Ex.P1 to Ex.P3 were not denied. Further the petitioner had examined his father as DW1 and his Manager as DW2. Through them Ex.D1 to Ex.D4 were marked. Further he had disputed the transactions between the petitioner and the respondent and also probalilized his defence by cogent evidence. Both the Courts below failed to consider the same.

4. The learned counsel for the respondent on the other hand submitted that in this case the complainant/ respondent examined himself as PW1 and through him Ex.P1 to Ex.P6 were marked. Though the petitioner had examined DW1 and DW2, they are none other than the father of the complainant and her Manager. He further submitted that the petitioner's husband used to regularly visit the respondent's mill and avail its service and also doing calendering work on contract basis. Since high value articles were entrusted in the calendering work, at that time for security those three cheques viz., Ex.P1 to Ex.P3 were obtained, which has been mis-used. DW1 and DW2 categorically denied the same and also given detailed explanation. Both the Courts below considered the same and by the well reasoned judgment had convicted the petitioner which needs no interference.

5. Upon considering the submissions made by the counsel on either side and on perusal of the materials, this Court find that the trial Court referring to the evidence of the complainant witness as well as the defence witness and exhibits had given a well reasoned judgment. The lower appellate Court independently assessed the evidence and confirmed the conviction of the petitioner. This Court find no reason to interfere with the conviction of the trial Court, confirmed by the lower appellate Court.

6. In view of the same, this Criminal Revision Case is dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

dsa



To

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

2.The Judicial Magistrate (F.T.C.No.II), Erode.

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+1cc to Mr.G.Pavendhan, Advocate, S.R.No.27464

Cr1.R.C.No.1147 of 2017

SPD(CO)
PM/29/04/2022