



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.04.2022

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CrI.R.C. (MD)No.468 of 2020

and

CrI.M.P(MD)No.4142 of 2020

WEB COPY

N.Malathi

...Revision Petitioner
/Complainant

Vs.

R.Jayalakshmi

... Respondent/ Accused

Prayer: This Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C. to call for the records in Cr.M.P.No.2946 of 2018 in S.T.C.No.302/2014 on the file of the Learned Judicial Magistrate No.II, (Fast Track Court) Madurai, and to set-aside the order passed in Cr.M.P.No.2946 of 2018 in S.T.C.No.302/2014 dated 17/02/2020.

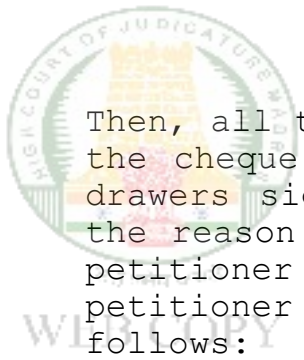
For Petitioner : Mr.C.M.Arumugam
For R1 : Mr.J.William Christopher

ORDER

The criminal revision case has been filed seeking to set aside the order passed by the learned Judicial Magistrate No.II, (Fast Track Court), Madurai, in Cr.M.P.No2946 of 2018 in S.T.C.No.302/2014.

2.The petitioner is the complainant and the respondent is the accused. The petitioner had filed a complaint for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 as against the respondent alleging that the respondent approached the petitioner on 12.05.2012 and obtained loan to the tune of Rs.10,00,000/- as personal loan. It was obtained through the respondent. Thereafter, the respondent and her husband were obtained the loan amount of Rs.1,00,000/- on 27.05.2012, a sum of Rs.50,000/-, on 01.06.2012, a sum of Rs.50,000/- on 03.06.2012, a sum of Rs.90,000/- on 01.08.2012, a sum of Rs.80,000/- on 21.09.2012, a sum of Rs.17,100/- on 28.09.2012, a sum of Rs.22,900/- on 12.01.2013, a sum of Rs.3,20,000/- on 12.01.2013, a sum of Rs.3,80,000/- on 13.01.2013 and again a sum of Rs.3,90,000/- was obtained on the same date from the complainant. Totally, the respondent and her husband had obtained a sum of Rs.25,00,000/-.

3.In order to repay the said amount, the respondent issued five post dated cheques of Indian Bank, Avaniyapuram Branch, Madurai to the complainant, each for a sum of Rs.1,00,000/- bearing numbers 184036, 184037, 184038, 184039 and 184040, dated 19.05.2014, 26.05.2014, 02.06.2014, 09.06.2014 and 16.06.2014 respectively.



Then, all the five cheques were presented for collection, but except the cheque No.184037, which was returned dishonored for the reason drawers signature differs and all other cheques were returned for the reason funds insufficient. After issuing statutory notice, the petitioner had filed the complaint. While pending the trial, the petitioner filed a petition seeking amendment of the complaint as follows:

'2.In Page No.1, to delete the para No.2 to add as
2. The Respondent/Accused had well acquaintance with the Complainant and out of the personal acquaintance the Respondent and her husband Rajkumar approached the Complainant and the Complainant's husband one V.P. Narayanasamy on April 2012 to obtain as a personal loan to the Respondent's business debt. After that the Respondent and his wife obtained the loan amount a sum of Rs. 50,000/- (Rupees Fifty Thousand) dated 06.07.2012 through the Complainant's husband's Cheque No.840052, Drawn at Canara Bank, Gomathipuram Branch, Madurai and a sum of Rs.50,000/- (Rupees Fifty Thousand) dated 29.06.2013 through NEFT and a sum of Rs. 1,00,000/- (Rupees One Lakh) dated 25.07.2013 through NEFT and a sum of Rs.77,000/- (Rupees Seventy Seven Thousand) dated 25.02.2014 through NEFT and a sum of Rs.1,74,000/ (Rupees One Lakh and Seventy Four Thousand) dated 02.09.2013 through the complainant's husband's cheque No.612971 and a sum of Rs. 1,00,000/- (Rupees One Lakh) dated 26.09.2013 through the complainant's husband's cheque No.840056 drawn at Canara Bank, Gomathipuram Branch, Madurai and a sum of Rs 2,24,000/- (Rupees Two Lakhs and Twenty Four Thousand) dated 08.04.2014 through the complainant's husband's cheque No.840058 drawn at Canara Bank, Gomathipuram Branch, Madurai and a sum of Rs.2,00,000/- (Rupees Two Lakhs) dated 30.08.2013 through the complainant's son's cheque No.578105 and a sum of Rs.2,00,000/- (Rupees Two Lakhs) dated 26.09.2013 through the complainant's son's cheque No.578106, drawn at Canara Bank, Gomathipuram Branch, Madurai. The Respondent and his wife received the loan amount through cheques and NEFT total sum of Rs.11,75,000/ (Rupees Eleven Lakhs and Seventy Five Thousand).The Respondents/Accused wife received the loan amount through cash a sum of Rs. 13,25,000/- (Rupees Thirteen Lakhs and Twenty five Thousand), dated 02.01.2013 a sum of Rs.2,00,000/ (Rupees Two Lakhs), dated 20.03.2013 a sum of Rs.3,00,000/- (Rupees Three Lakhs) dated 05.08.2013 a sum of Rs.3,00,000/- (Rupees Three Lakhs) dated 05.11.2013 a sum of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand) dated 08.01.2014 a sum of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand)



dated 08.03.2014 a sum of Rs25,000/- (Rupees Twenty Five Thousand) from the complainant. The loan amount is total sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs) obtained by the Respondent and his wife.'

4.On perusal of these amendments, which were sought for by the petitioner had changed the entire cause of action since as per the original complaint, statutory notice and the sworn statement recorded while taking cognizance of the complaint revealed that the entire transaction between 12.05.2012 and 13.01.2013, whereas, the amendment sought for by the petitioner revealed that subsequent to the said transaction from 20.03.2013 to 08.04.2013 are to be included in the complaint.

5.Therefore, the said amendment would completely change the entire cause of action of the complaint as such, the Court below rightly dismissed the petition for amendment and this Court finds no infirmity or illegality in the order passed by the learned Judicial Magistrate No.II (Fast Track Court) Madurai in Cr.M.P.No.2946 of 2018 in S.T.C.No.302 of 2014, dated 17.02.2020. Accordingly, the criminal revision case is dismissed. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

lr

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

The Judicial Magistrate II (fast Track Court),
Madurai.

+1 CC to M/s.C.M. ARUMUGAM, Advocate (SR-17763[F] dated
11/04/2022)

Crl.R.C. (MD) No.468 of 2020
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SRK(CO)
KB(29.04.2022) 3P 3C