



Crl.R.C(MD) No.615 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

**Crl.R.C(MD)No.615 of 2022
and
Crl.M.P(MD).No.7618 of 2022**

K.Anitha

... Petitioner

Vs.

S.Ramraj

... Respondent

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records pertaining to order passed by the learned Judicial Magistrate (Fast Track Court), Srivilliputtur in Crl.M.P(MD).No. 549 of 2022 in C.C.No.23 of 2021 dated 02.06.2022 and set aside the same as illegal.

For Petitioner : Mr.S.Vasanth Yuges

For Respondent : Mr.M.Thirunavukkarasan



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ORDER

This petition has been filed to set aside the order passed by the learned Judicial Magistrate (Fast Track Court), Srivilliputtur in Crl.M.P(MD).No.549 of 2022 in C.C.No.23 of 2021 dated 02.06.2022.

2. The case of the prosecution is that on 10.02.2019, the petitioner/accused has borrowed a sum of Rs.5,00,000/- (Rupees Five Lakhs only) by way of cash and agreed to pay 12% interest per annum and he had executed a promissory note in favour of the complainant/respondent. The respondent demanded money from the petitioner, for which, the revision petitioner issued a cheque bearing No. 317455 dated 24.02.2020, for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) and the same was dishonoured for insufficient funds and thereafter, the respondent has filed a case in S.T.C.No.773 of 2020, on the file of the Judicial Magistrate, Srivilliputtur and the same was transferred to Judicial Magistrate (Fast Track Court), Srivilliputtur and renumbered as C.C.No.23 of 2021. Three defence witnesses were speaking in the witness box about the voice recordings, which were marked as Ex.D1. The contents of the recordings were relevant to the transaction of Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand only), which



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is the case of the revision petitioner. Therefore, the revision petitioner has filed Crl.M.P.No.549 of 2022 in C.C.No.23 of 2021, under Section 45 of Indian Evidence Act, for the comparison of voice recordings between the complainant's wife and the accused's husband and the same was dismissed by the learned Judicial Magistrate (Fast Track Court), Srivilliputtur. Challenging the same, the present Criminal Revision Case has been filed.

3. The learned counsel for the petitioner submitted that while comparison of the voice recordings, one voice was admitted by the complainant and other voice record has not been admitted and on that ground, he made an application. He would further submit that the wife of the complainant was examined on the side of the defence as D.W.2 and during the course of her evidence, she has stated that she knows the accused, namely, Anitha, but her husband is not known to her.

4. The above said defacto complainant's wife has made conversation with the accused/petitioner and not with her husband. On that ground only, the above said petition has been filed and the same was dismissed by the trial Court.



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5. The learned counsel for the respondent submitted that the voice recording between the wife of the complainant/respondent and the husband of the accused/petitioner could not help the defence case. The trial Court has to decide whether there was any enforceable liability between the accused persons and the complainant, any sort of facts spoken during the private conversation between the wife of the complainant and the husband of the petitioner, will not help the case of the accused to rebut the presumption. Whether private conversation is admissible in evidence, insofar as the present complaint is concerned, is also a matter for consideration by the trial Court at the time of the judgment.

6.I am of the considered view that no ground has been made out by the revision petitioner to interfere with the order that has been passed by the trial Court. Therefore, this revision is liable to be dismissed.



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In the result, the Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed.

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Index : Yes/No
Internet : Yes/No
tta

To:-

Judicial Magistrate (Fast Track Court),
Srivilliputtur.



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G.ILANGO VAN,J

tta

**ORDER MADE IN
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28.09.2022