



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2022

CORAM:

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

Cr1.R.C. (MD)No.966 of 2021

WEB COPY

M.Kumar

... Petitioner

Vs

1.The Inspector of Police,
E-2, Mathichiyam Police Station (Crime),
Madurai City.

2.N.Rajkumar

3.V.Srinivasan

4.R.Harikrishnan

5.A.Nallamani

6.M.Senthilnathan

... Respondents

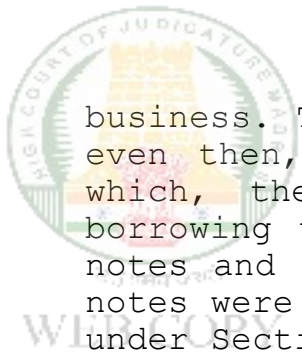
Prayer: This Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C., to call for the records relating to the order dated. 16.11.2021 passed in Cr.M.P. No. 8634 of 2021 on the file of the learned Judicial Magistrate No. II, Madurai.

For Petitioner	: Mr.R.Gandhi
For R1	: Mrs.M.Aasha,
	Government Advocate (Criminal Side).
For R2	: Mr.T.K.Gopalan
For R4 and R6	: Mr.A.Uthayakumar
For R5	: Mr.V.Palani
For R3	: No appearance

O R D E R

This Criminal Revision Case has been filed challenging the impugned order dated 16.11.2021 passed in Cr.M.P. No. 8634 of 2021 on the file of the learned Judicial Magistrate No. II, Madurai, thereby dismissing the petition filed seeking of direction under Section 156(3) Cr.P.C.

2.The petitioner lodged a complaint for direction under Section 156(3) Cr.P.C, as against the respondents 3 to 6. It is seen from the complaint lodged by the petitioner that the petitioner borrowed a loan from the respondents 2 and 3 herein for his real estate



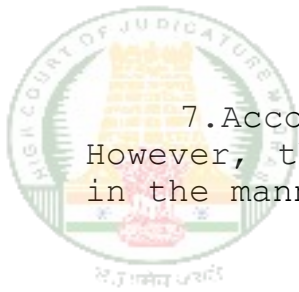
business. Thereafter, he repaid the entire amount with interest and even then, the respondents 2 & 3 demanded huge interest, failing which, they also threatened him with dire consequences. While borrowing the said loan, the respondents 2 & 3 obtained promissory notes and cheques from the petitioner. Subsequently, the promissory notes were filled up in different name and initiated the proceedings under Section 138 of the Negotiable Instruments Act and also filed a suit for recovery of money.

4.The learned counsel for the petitioner in support of his submission, relied upon the Judgment of the **Hon'ble Supreme Court in Iqbal Singh Marwah & Another vs Meenakshi Marwah & Another** reported in **2005(4)SCC 370**, wherein it is held as follows:

"25. An enlarged interpretation to Section 195(1)(b) (ii), whereby the bar created by the said provision would also operate where after commission of an act of forgery the document is subsequently produced in Court, is capable of great misuse. As pointed out in Sachida Nand Singh, after preparing a forged document or committing an act of forgery, a person may manage to get a proceeding instituted in any civil, criminal or revenue court, either by himself or through someone set up by him and simply file the document in the said proceeding. He would thus be protected from prosecution, either at the instance of a private party or the police until the Court, where the document has been filed, itself chooses to file a complaint. The litigation may be a prolonged one due to which the actual trial of such a person may be delayed indefinitely. Such an interpretation would be highly detrimental to the interest of society at large."

5.A perusal of the records, reveals that the said occurrence happened in the year 2009 and whereas the complaint was lodged only in the year 2015. There is absolutely no explanation for the inordinate delay of 6 years, for lodging the complaint. That apart, the petitioner can very well substantiate his contention before the Civil Court, by way of proving that those cheques and promissory notes were given at the time of borrowal and the same were filled up by some other person and proceedings were initiated under Section 138 of the Negotiable Instruments Act and the suit for recovery of money. Therefore, the Judgment cited by the learned counsel for the petitioner is not applicable to the case on hand.

6.Hence, the Court below rightly dismissed the petition, filed by the petitioner seeking direction under Section 156(3) Cr.P.C. This Court finds no infirmity or illegality in the order passed by the Court below.



7. Accordingly, this Criminal Revision Case is dismissed. However, the petitioner is at liberty to file a private complaint, in the manner known to law, if so advised.

Sd/-

Assistant Registrar (CS-I)

WEB COPY

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Sub Assistant Registrar(CS)

PNM

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

1. The Judicial magistrate No.II, Madurai.

2. The Inspector of Police,
E-2, Mathichiyam Police Station (Crime),
Madurai City.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.T.K.GOPALAN, Advocate (SR-13047[F] dated 18/03/2022)

+1 CC to M/s.R.GANDHI, Advocate (SR-13304[F] dated 21/03/2022)

Cr1.R.C. (MD) No. 966 of 2021

18.03.2022

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