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Crl.R.C.No.2172 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.2172 of 2023

S.Bhaskar

... Petitioner

Vs.

G.Porselvi

... Respondent

Prayer: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to set aside the order passed in C.M.P.No.719 of 2022 in STC.No.44 of 2014 dated 08.07.2022 on the file of the Court of Fast Track Magisterial Level No.II, Poonamalle, Thiruvallur District and direct the Court of Fast Track Magisterial Level No.II, Poonamallee, Thiruvallur District to return the original sale deed document No.4861 of 1988 dated 09.11.1988 to the petitioner within a stipulated time.

For Petitioner : Mr.B.Sridhar

For Respondent : Ms.V.Bhavani
Legal Aid



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ORDER

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The petitioner/accused in S.T.C.No.44 of 2014, a private complaint filed by the respondent for the offence under Section 138 of Negotiable Instruments Act filed a petition under Section 45 Cr.P.C. before the Judicial Magistrate/FTC, Poonamallee seeking return of Ex.P1 which is the original title deed of his property vide Document No.4861/1988 and the same was dismissed by the Lower Court by order dated 08.07.2022. Against which the present revision petition filed with a delay.

2.When notice was ordered to the respondent/complainant, it was returned for the reason 'refused'. Since all efforts went in vein, this Court appointed Ms.V.Bhavani, as Legal Aid Counsel for the respondent by order dated 11.12.2023.

3.The contention of the petitioner is that it is not in dispute that the petitioner handed over his original title deed of his property vide Document No.4861/1988 as security for the loan of Rs.5 lakhs which he had obtained from the respondent on 15.06.2012 for the business purpose of the



petitioner. The petitioner also handed over two cheques bearing Nos.793616 and 793617 for Rs.2,50,000/- each as security. When these two cheques were presented for encashment, it got dishonoured and thereafter, complaint under Section 138 of Negotiable Instruments Act was registered against the petitioner. In the evidence, the respondent/complainant marked Ex.P1/Document No.4861/1988, thereafter on conclusion of the trial, the Lower Court by judgment dated 17.05.2017 convicted the petitioner and sentenced him to undergo six months simple imprisonment and also directed the petitioner to pay the cheque amount of Rs.5,00,000/- as compensation. Aggrieved against the same, the petitioner preferred an appeal in C.A.No.80 of 2017 before the learned Principal Sessions Judge, Tiruvallur. During the pendency of the appeal, the case was referred to Lok Adalat as per Section 89 Cr.P.C.. The petitioner and the respondent settled the dispute between them before the Lok Adalat on 09.03.2019. Recording the same, the Lower Appellate Court by judgment dated 15.03.2019 set aside the judgment of conviction passed by the Lower Court and allowed the appeal based on the award passed by the Lok Adalat. Thereafter, since the petitioner requires the original title deed vide Document No.4861/1988, he filed a petition



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under Section 452 Cr.P.C. in C.M.P.No.719 of 2022 which was dismissed.

Hence, the present petition filed.

4.The learned counsel for the petitioner submitted that the respondent had not appeared before the Lower Court but the Court in its order recorded as though the Lower Court heard both sides i.e. the petitioner as well as the respondent and further gave a finding that Ex.P1 which is the sale deed vide Document No.4861/1988 is marked by P.W.1/respondent in S.T.C.No.44 of 2014, hence the document is not related to the petitioner/accused and he is not entitled to the complainant's side document and dismissed the same. Therefore, the order of the Lower Court is perverse and it is not proper.

5.The learned counsel for the respondent submitted that the admitted position of the respondent even in the complaint is that the petitioner handed over the original title deed vide Document No.4861/1988 at the time of availing loan and he also issued two cheques for Rs.2,50,000/- each for the loan of Rs.5,00,000/-. When the cheques were presented for encashment, it got dishonoured, and thereafter, the respondent initiated proceedings against



the petitioner under Section 138 of NI Act. She fairly submitted that issue between the petitioner and the respondent resolved before the Lok Adalat in C.A.No.80 of 2017 dated 09.03.2019 and the petitioner was acquitted of all charges in S.T.C.No.44 of 2014

6.Considering the submission and perusal of the materials, it is seen that the admitted position of the respondent is that the petitioner handed over the original title deed vide Document No.4861/1988 as security while availing loan of Rs.5,00,00/-, which was Ex.P1 in S.T.C.No.44 of 2014. On his conviction, the petitioner preferred an appeal in C.A.No.80 of 2017 before the Lower Appellate Court. It is also seen during the pendency of the appeal, the matter was referred to Lok Adalat wherein the issue got resolved, i.e. the petitioner discharged the liability. It is seen that the original title deed Ex.P1 was handed over by the petitioner while availing loan, now the issued had been resolved and the loan was repaid to the satisfaction of the respondent. Therefore, the finding of the Lower Court is not proper and hence, the impugned order passed by the Lower Court in C.M.P.NO.719 of 2022 in S.T.C.No.44 of 2014 dated 08.07.2022 is set aside. In view of the



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undisputed fact, the Lower Court is directed to return and hand over the original title deed vide Document No.4861/1988 by dispensing with the notice to the respondent.

7.With the above directions, the Criminal Revision Petition stands allowed.

8.This Court appreciates Ms.V.Bhavani, appointed as legal aid counsel for the respondent in rendering her sincere efforts in this regard.

21.12.2023

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
cse
To

The Judicial Magistrate,
Fast Track Court,
Magisterial Level No.II,
Poonamallee.



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M.NIRMAL KUMAR, J.

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