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Crl.R.C.No.1293 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.RC.No.1293 of 2019

R.S.Karukaran

... Petitioner/Accused

Vs.

K.Varalakshmi

... Respondent/Complainant

PRAYER: Criminal Revision Petition filed under Section 397 & 401 Criminal Procedure Code, to set aside the judgment in C.A.No.116 of 2018 dated 21.02.2019 on the file of the learned XVIII Additional Sessions Judge, Chennai, confirming the conviction and sentence passed in C.C.No.2991 of 2015 dated 20.02.2018 on the file of the learned Metropolitan Magistrate, Fast Track Court-II, Chennai imposing one year imprisonment and further imposing a compensation of Rs.5,20,000/-.

For Petitioner : M/s.A.N.Rajan

For Respondent : Mr.D.Sivashanmugam



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ORDER

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This Criminal Revision Case has been posted repeatedly. Subsequently, on 27.07.2023 the present Counsel filed change of Vakalath. At that time, it was stated that within 15 days they have to settle or otherwise proceed with the argument.

2.Today (08.08.2023) it was posted "on top of the list". When the matter is came up for hearing, the learned Counsel for the Revision Petitioner filed the additional typed set of papers which contains the copy of the sale agreement deed. He relies on the recitals in the said sale agreement deed and submits that the finding given by the learned trial Judge is not as per law. The Respondent/Complainant had taken four years to settle the amount. Therefore, he seeks further time. Instead of the amount ordered by the Court, the Petitioner may be permitted to settle for balance amount. The said submission of the learned Counsel appearing on change of vakalath for the Revision Petitioner cannot at all be accepted. In the light of the fact that the Petitioner herein who had faced trial had the opportunity to let in evidence at the trial stage.



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3. On perusal of the judgment of the learned Metropolitan Magistrate Court, Fast Track Court - II, Chennai, it is found the Petitioner had not let in evidence. After closing of the evidence of the Complainant, the incriminating evidence available before the Court against the Accused was put to him by the Court under Section 313 Cr.P.C, there also he had not explained all these things or had not marked any document. Now, he filed additional typed set of papers. Therefore, in the Revision this Court cannot go into the merits of the facts of the case when he had not agitated the valuable rights of the Accused before the trial Court.

4. After having suffered conviction before the learned Metropolitan Magistrate Court, Fast Track Court - II, Chennai, he had agitated his rights by filing Crl.A.No.116 of 2018, against the judgment passed on the C.C.No.2991 of 2015. After hearing the learned Counsel for the Appellant/Accused and the Respondent/Complainant, the learned XVIII Additional Sessions Judge, Chennai had confirmed the judgment of conviction passed by the learned Metropolitan Magistrate Court, Fast Track Court - II, Chennai in C.C.No.2991 of 2015, by judgment dated 21.02.2019, against which this Criminal Revision Case is filed. In the Crl.R.C.No.1293



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of 2019 the Accused/Revision Petitioner cannot be heard to raise the facts which he had not agitated before the trial. Regarding technicalities of law he cannot raise the dispute regarding the cheque amount now at this stage. Therefore, this Criminal Revision fails and is to be dismissed.

5.The Appellant/Accused is directed to surrender before the learned Metropolitan Magistrate, Fast Track Court - II, Chennai, within 15 days from today. The learned Metropolitan Magistrate, Fast Track Court - II, Chennai, is directed to issue warrant in continuation of the judgment of conviction recorded by the learned Metropolitan Magistrate, Fast Track Court - II, Chennai, C.C.No.2991 of 2015, dated 20.02.2018 and detain the Accused in Prison to undergo the sentence of imprisonment and also for recovering the dues to initiate action against him for payment of compensation.

6.With the above direction, this Criminal Revision Case stands dismissed.

08.08.2023

vsn

Note: Issue Order Copy on 08.08.2023



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SATHI KUMAR SUKUMARA KURUP,J.

vsn

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