



Crl.R.C.No.1296 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2023

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THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

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Papji

... Petitioner

Vs.

Pandiyammal

... Respondent

Prayer : Criminal Revision filed under Section 397 & 401 of Criminal Procedure Code to set aside the order in Crl.M.P.No.9557/2022 in S.T.C.No.314/2021 on the file of Fast Track Judicial Magistrate, Tirupur dated 26.05.2023 and call for records.

For Petitioner : Mr.S.Ezhil Raj

ORDER

Challenging the orders dated 26.05.2023 in Crl.M.P.No.9557/2022 in S.T.C.No.314/2021 on the file of Fast Track Judicial Magistrate,



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Tiruppur, the present revision petitioner/accused has filed this criminal revision.

2.The respondent/complainant filed a private complaint under Section 200 Cr.P.C. against the revision petitioner/accused for an offence punishable under Section 138 of Negotiable Instruments Act. In the complaint, the respondent had stated that the accused is his family friend and in the year 2018, he borrowed various amounts on different dates. In order to discharge the debt, the accused issued a cheque bearing No.485540 dated 03.11.2020 for a sum of Rs.3,50,000/- drawn on State Bank of India, Tirupur branch. When the said cheque was presented for collection by the complainant on 04.11.2020, the same was returned for the reason 'Funds Insufficient'. Thereafter, the complainant sent a legal notice dated 12.11.2020 to the revision petitioner demanding the latter to make good the amount due under the cheque. Though the revision petitioner received the said notice as is seen from the Registered Postal Acknowledgement Card, the accused did not come forward to make good the payment. He did not also send any reply.



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3. Thereafter, the respondent/complainant filed the private complaint under Section 200 of Cr.PC before the Fast Track Judicial Magistrate, Tiruppur. The same was taken on file in STC No.314/2021. After receiving summons, the accused entered appearance. Copies of records were furnished to him under Section 207 Cr.PC. and when the accused was questioned with regard to the substance of the accusations made in the complaint, the revision petitioner/accused denied having committed the offence. The complainant examined himself and he cross examined by the accused at length. In fact, the accused had not denied the signature on the cheque issued by him to the complainant and no suggestion was put to PW1 (complainant) in this regard. Subsequently, the accused filed a petition in Crl.M.P.No.9557/2022 before the trial Court under Section 45 of Indian Evidence Act for comparing the writings made on the impugned cheque.

4. The respondent/complainant filed a detailed counter and the learned trial court judge after analyzing the rival submissions dismissed



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the petition filed by the accused on the following grounds :

- i. The accused did not send any reply to the statutory notice issued by the complainant.
- ii. The accused had filed this application at the fag end of the trial and the intention of the petitioner is to drag on the proceedings.
- iii. Even assuming that the complainant had filled up the amount and date in the cheque, Section 20 of Negotiable Instruments Act comes into operation and therefore, the impugned cheque cannot be sent for expert's opinion.

5.Heard Mr.S.Ezhil Raj, the learned counsel for the revision petitioner.

6.The learned counsel for the revision petitioner contended that the revision petitioner/accused issued only a signed blank cheque and that the complainant had filled it up subsequently. But as rightly observed by the learned trial court judge, even if the case of the accused is admitted to be true, Section 20 of Negotiable Instruments Act comes into operation



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"20.Inchoate stamped instruments.—Where one person signs and delivers to another a paper stamped in accordance with the law relating to negotiable instruments then in force in I[India], and either wholly blank or having written thereon an incomplete negotiable instrument, he thereby gives prima facie authority to the holder thereof to make or complete, as the case may be, upon it a negotiable instrument, for any amount specified therein and not exceeding the amount covered by the stamp. The person so signing shall be liable upon such instrument, in the capacity in which he signed the same, to any holder in due course for such amount; provided that no person other than a holder in due course shall recover from the person delivering the instrument anything in excess of the amount intended by him to be paid thereunder."

7.That apart, in the instant case, the accused was also questioned under Section 313(1)(b) Cr.PC, and the present petition has been filed only to drag on the proceedings. The trial court judge is directed to conclude the trial within a period of one month from the date



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of receipt of a copy of this order since the complaint is of the year 2021.

8. This criminal revision petition is dismissed. No costs.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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R. HEMALATHA, J.
mtl

To

- 1.The Fast Track Judicial Magistrate, Tirupur
- 2.The Section Officer,
Criminal Section, High Court, Madras.

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