



Crl.R.C.No.980 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 08.06.2023

Orders Pronounced on : 12.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

Crl.R.C.No.980 of 2019

John Mathew

...Petitioner

.. Vs ..

Ramalingam

...Respondent

PRAYER : Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C., to set aside the order passed by the IV Additional District and Sessions Judge, Coimbatore in Crl.A.No.105 of 2017, dated 12.04.2019 and judgment passed by learned Judicial Magistrate (FTC-II), Coimbatore in C.C.No.74 of 2013, dated 12.04.2017.

For petitioner : Mr.D.Sreenivasan

For Respondent : Mr.K.Myilsamy



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Crl.R.C.No.980 of 2019

ORDER

The convicted accused is the Revision Petitioner herein.

2. The respondent-complainant filed a complaint under Section 138 of Negotiable Instruments Act before the learned Judicial Magistrate (Fast Track Court No-II), Coimbatore.

3. After trial, the Court held that the private complainant is entitled for legal presumption under the said Act and as the respondent in accused failed to rebut the presumption therein, the trial Court convicted the accused and laid the sentence of imprisonment.

4. The appeal, Crl.A.No.105 of 2017, was dismissed by the learned IVth Additional District Sessions Judge, Coimbatore and hence the present revision is filed by the complainant.

5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused the records.



Crl.R.C.No.980 of 2019

6. The main grievance of the revision petitioner is that, though he admitted his signature in the cheque, he had pleaded that the cheque was misplaced by him and it was utilized by the respondent and the respondent/complainant has not proved his source of income in respect of payment of Rs.15 lakhs cheque amount.

7. After hearing both sides and after perusal of the records, I find that P.W.1 complainant has issued notice and he had categorically stated in his evidence that he had borrowed the said amount of Rs.15,00,000/- on 23.01.2010 and had executed the cheque in question. On presentation, the same got bounced and after observing all the formalities, he had filed the complaint.

8. On behalf of the accused, no oral and documentary evidence has been let in.

9. After going through the evidence of P.W.1, I find that the trial Court has rightly come to the conclusion that, since the accused has admitted the signature in the cheque, the complainant is entitled for presumption under Section 139 of the Negotiable Instruments Act. The accused can rebut the said presumption either by letting in oral or



Crl.R.C.No.980 of 2019

documentary evidence on his side or elicit answer during the cross-examination of P.W.1. However in the instant case, no oral and documentary evidence has been produced by the revision petitioner/accused, as noted above.

10. Further, there is nothing in the cross-examination of P.W.1 with regard to the financial capacity of P.W.1 to issue Rs.15 lakhs and hence, in the absence of any question being put to P.W.1 regarding his financial capability, such a plea cannot be allowed to be raised for the first time in the criminal revision. Hence, I find that the petitioner/accused has not rebutted the presumption that had arisen in favour of P.W.1 and accordingly, I do not find any merit in this case.

11. Both the Courts below have concurrently held that the respondent/complainant is entitled for statutory presumption under the provisions of the Negotiable Instruments Act and the accused having failed to rebut the said presumption, the Courts below has rightly laid the conviction and sentence and the findings of the both the Courts below do not suffer from any illegality or irregularity warranting interference by this Court in this revisional jurisdiction.



Crl.R.C.No.980 of 2019

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12. Accordingly, I do not find any merit in this case and Criminal Revision Petition is accordingly dismissed.

12.06.2023

nvi

Internet:Yes/No

Speaking Order:Yes/No

Neutral Citation: Yes/No

To

1. The IV Additional District and Sessions Judge, Coimbatore.
2. The Judicial Magistrate (FTC-II), Coimbatore
2. The Public Prosecutor
High Court, Madras.
3. The Inspector of Police,
Tirukoilur Police Station,
Tirukoilur.



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Crl.R.C.No.980 of 2019

RMT.TEEKAA RAMAN, J.

nvi

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Crl.R.C.No.980 of 2019

12.06.2023