



Crl.R.C. No.1496 of 2023 & Crl.M.P. No.13267 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2023

CORAM

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

Crl.R.C.No. 1496 of 2023 &

Crl.M.P. No.13267 of 2023

C.R.Sindhya

...Petitioner

Vs.

S. Vigash

...Respondent

Prayer : Criminal Revision Case filed under Section 397(1) r/w 401 Cr.P.C. against the order dated 12.07.2023 in Crl.M.P. No.23004 of 2023 in S.T.C. No.2643 of 2021, on the file of the Metropolitan Magistrate, Fast Track Court-II, Egmore, Allikulam, Chennai.

For Petitioner : Mr. V.V.Giridhar

ORDER

Challenge in this Criminal Revision is made to the orders dated 12.07.2023 in Crl.M.P. No.23004 of 2023 in S.T.C. No.2643 of 2021, on the file of the Metropolitan Magistrate, Fast Track Court-II, Egmore, Allikulam, Chennai.

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2. This Criminal Revision is listed today under the caption 'Adjourned Admission' and the same is decided at the admission stage itself.

3. The facts leading to the filing of the present Criminal Revision are as follows:

3.1. The respondent/complainant and the revision petitioner/accused are closely related to each other. The accused borrowed a sum of Rs.1,25,000/- as a hand loan from the complainant on 14.08.2020 and promised to repay the same together with interest at the rate of 24% per annum within a period of three months.

3.2. Since the accused did not pay any amount either towards principal or interest, the complainant demanded the accused to repay the amount lent by him and the accused issued a cheque bearing No.081005 dated 17.06.2021 for a sum of Rs.1,25,000/- drawn on Union Bank, Ambattur Branch, Chennai, to the complainant. When the cheque was presented by the complainant for collection through his banker, namely,



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IDBI Bank, Greams Road Branch, Chennai, the same was returned for the reason 'payment stopped by drawer' on 19.06.2021. This was immediately intimated to the accused and the accused requested the complainant to re-present the same cheque. However, the cheque was returned for the very same reason 'payment stopped by drawer' on 19.07.2021.

3.3. Thereafter the complainant issued a statutory notice dated 07.08.2021 to the accused directing her to pay the amount due under the cheque within 15 days from the date of receipt of the notice. The accused 'refused' to receive the said notice and therefore, the complainant filed a private complaint under Section 200 Cr.P.C. against the accused for an offence punishable under Section 138 of NI Act before the Metropolitan Magistrate, Fast Track Court-II, Egmore, Allikulam, Chennai.

3.4. The learned Metropolitan Magistrate, Fast Track Court-II, Egmore, Allikulam, Chennai, took cognizance of the offence and issued



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summons to the accused. On appearance of the accused, copies of records were furnished to her under Section 207 Cr.P.C. and thereafter the accused was questioned with regard to the substance of accusation made against her. Since the accused pleaded not guilty, the case was posted for trial.

3.5. The complainant examined himself as P.W.1. He was also cross examined by the accused. When the accused was questioned with regard to the circumstances appearing in evidence against her under Section 313 Cr.P.C., she denied of having committed any offence and the case was posted for defence side witness. At that point of time the present revision petitioner/accused filed a petition in Crl.M.P.No.23004/2023 under Section 254(2) Cr.P.C. to examine 2 witnesses, namely, one K.Sarojini and one P.Bharanidaran, on her side. She also filed another petition in Crl.M.P. No.23003/2023 under Section 311 Cr.P.C. to recall P.W.1 for further cross examination. Both the petitions were dismissed by the learned Metropolitan Magistrate, Fast Track Court-II, Egmore, Allikulam, Chennai, on 12.07.2023.



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3.6. Crl.M.P. No.23004/2023 was dismissed by the trial court on the ground that the revision petitioner/accused did not explain as to how the evidence of the witnesses, namely, K.Sarojini and P.Bharanidaran, are relevant to the facts of the present case.

3.7. Aggrieved over the orders passed in Crl.M.P.No.23004/2023, the present revision is filed.

4. Mr. V.V.Giridhar, learned counsel for the revision petitioner contended that the complainant and the revision petitioner/accused are cousins and that they have a joint family property at Nungambakkam, Chennai. He drew the attention of this court to the cross examination of P.W.1 and contended that the complainant had inducted one Prakash as a tenant in the portion of the house belonging to the revision petitioner/accused and that the revision petitioner/accused used to hand over signed blank cheques for the purpose of maintaining the property and one such cheque was misused by the complainant. He would therefore contend that Sarojini, who is the mother of the accused and P.



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Bharanidaran, her cousin brother would depose as to how they were all maintaining the joint family properties. According to him, the evidence of the mother and cousin brother of the revision petitioner/accused are absolutely essential for the just decision of the case.

5. At the outset, it may be observed that the present revision petitioner/accused did not issue any reply to the statutory notice sent by the respondent/complainant. However, during the course of cross examination of the complainant (P.W.1) it was suggested to him that he (complainant) had inducted one Prakash in the portion belonging to the accused and that in order to evict the said tenant, the cheque issued by the accused had been misused by him. It is totally incomprehensible as to why the complainant though had inducted one Prakash as a tenant in the portion belonging to the accused, wanted to evict him and for achieving the same misused the cheque issued by the accused. It was also suggested to P.W.1 that there was an agreement on 16.06.2021 between him and the accused on the basis of which the accused stopped payment of the cheque to the complainant. This was vehemently denied by the complainant.



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6. It is pertinent to point out that the revision petitioner/accused did not deny his signature on the cheque and therefore, there is a presumption under Sections 118 and 139 of the Negotiable Instruments Act with regard to the existence of legally enforceable debt and the same can be rebutted by the accused by way of adducing acceptable evidence.

7. As already observed, the accused did not choose to send any reply to the statutory notice issued by the complainant. A perusal of the records shows that the answers by the revision petitioner/accused to the questions under Section 313 Cr.P.C were of simple denial. When the case was posted for arguments, the revision petitioner/accused has come up with the petition to examine two witnesses on his side. The purpose of examining these two witnesses are very vague and this petition appears to have been filed only to protract the proceedings as far as possible. Therefore, the Criminal Revision Case is dismissed as devoid of merits.



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8. In the result,

- i. the Criminal Revision is dismissed. Consequently connected miscellaneous petition is closed.
- ii. The orders dated 12.07.2023 in Crl.M.P. No.23004 of 2023 in S.T.C. No.2643 of 2021, on the file of the Metropolitan Magistrate, Fast Track Court-II, Egmore, Allikulam, Chennai, is confirmed.

05.09.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
bga

To

The Metropolitan Magistrate, Fast Track Court-II,
Egmore, Allikulam, Chennai.,



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R. HEMALATHA, J.
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