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Crl.R.C.Nos.1594 & 1602 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.R.C.Nos.1594 & 1602 of 2022

G.Rajalakshmi
P.Selvi

... Petitioner in Crl.R.C.No.1594/2022
... Petitioner in Crl.R.C.No.1602/2022

/Versus/

A.Amudha
W/o.Dhakshnamoorthy
Proprietrix, M/s.Sri Mangai Super Market,
Door No.8/1, Venkateswara Nagar,
Near Eshwari Garden, Hosur,
Krishnagiri District-635 109.

Also at
D.No.47/S-4, Senthamizhselvi Building,
Venkateshwara Nagar, 2nd Main Road,
Dharga, Hosur Taluk,
Krishnagiri District-635 109.

... Respondent in both Crl.R.Cs

COMMON PRAYER : Criminal Revision Case have been filed under Section 397 r/w. 401 Cr.P.C. to call for the records pertaining to the order passed by the learned Judicial Magistrate, Fast Track Court, Hosur in Crl.M.P.Nos.3042 & 3043 of 2022 and 3046 of 2022 in S.T.C.Nos.139 & 136 of 2020 dated 06.10.2022, set aside the same.

For Petitioner in both Crl.R.Cs. ... Mr.A.Balamurugan

For Respondent in both Crl.R.Cs. ... Mr.T.Ganesan



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COMMON ORDER

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These Criminal Revision Cases are filed against the order of the learned Judicial Magistrate, Fast Track Court, Hosur in Crl.M.P.Nos.3042 of 2022 & 3043 of 2022 in S.T.C.No.139 of 2020 and Crl.M.P.No. 3046 of 2022 in S.T.C.No.136 of 2020 dated 06.10.2022.

2. The learned counsel for the petitioners submitted that the petitioners are the complainants in S.T.C.Nos.139 & 136 of 2020 pending on the file of the learned Judicial Magistrate, Fast Track Court, Hosur for dishonouring of cheques issued by the respondent/accused for a sum of Rs.20,00,000/- and Rs.15,00,000/- respectively. After completion of the trial, when the case was posted for judgment, the complainants filed two petitions in Crl.M.P.Nos.3042, 3043, & 3046 of 2022 one for reopening and another for examining the Branch Manager, ICICI Bank, Hosur. The disputed cheques were issued from the account maintained by the accused in that bank. Therefore, in order to prove their case, the cheques have been issued by the accused and the signature contained in the cheques are belonged to the accused, they filed a petition to examine Branch Manager of ICICI bank. He further contended that the respondent/accused by filing a



counter has taken a defence that the disputed cheques were not issued by her and there were no transactions between the complainants and the accused and she has also disputed the signature found in the cheques. Therefore, it is pertinent to state that the complainants must prove that the disputed cheques were drawn on the account maintained by the accused in ICICI bank and the signature contained in the cheques is of the accused. Therefore, they filed petitions before the trial Court. The Trial Court, without considering the facts and appreciating the contentions of the petitioners, dismissed the petitions. Hence, seeking to allow the Criminal Revision Case.

3. The learned counsel for the respondent/accused contended that in order to fill up the lacuna and to substitute the case, after reserving the case for judgment, the petition has been filed belatedly to examine the Branch Manager. There is no bonafide on the part of the petitioners. The Trial Court has rightly dismissed the said petitions and the order does not warrant interference of this Court. Hence seeking to dismiss the Criminal Revision Cases.



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4. Heard the learned counsel for the petitioners and the learned counsel for the respondent and I have considered the materials on record.

5. On a perusal of the records, the fact reveals that the petitioners are the complainants in S.T.C.Nos.139 & 136 of 2020, on the file of the learned Judicial Magistrate, Fast Track Court, Hosur. The respondent is the accused. The petitioners filed the private complaints against the accused for dishonour of cheques for a sum of Rs.20,00,000/- and Rs.15,00,000/- respectively drawn on ICICI bank, Hosur. The accused took the defence that the cheques were not issued by her and the signature contained in the cheques were not of the accused and also filed a counter to this effect in paragraphs 2 and 3, wherein, she has denied the signature in the disputed cheques and denial of issuance of cheques and also disputed the proprietorship of M/s.Sri Mangai Super Market

6. On a perusal of the disputed cheques, it is noticed that the disputed cheques have been signed by proprietor for M/s.Sri Mangai Super Market. She mentioned the account number 660805600657 for an account



maintained in ICICI bank, Hosur, in the complaints and the disputed cheques. The foundation of the complainants case is that the accused as a proprietor had issued the cheques on behalf of the M/s.Sri Mangai Super Market in an account maintained in ICICI bank. In this circumstance, it is initial burden of the complainants to prove that the cheques were issued by the accused as a proprietor and the signature contained in the disputed cheques is of the accused. In order to establish whether the cheques have been issued for the account maintained in ICICI bank, it is necessary for the complainants to examine the Branch Manager of ICICI bank. In these circumstances, denying the opportunity to the complainants to prove their case is not fair. Therefore, in order to give fair chance to the complainants to prove their case and discharge their initial burden, a chance has to be given to the complainants. The Trial Court may consider the case properly. Hence the impugned orders are unsustainable and the order of the Trial Court is hereby set aside.

7. In the result, these Criminal Revision Cases are allowed. The Trial Court is directed to summon the Branch Manager, ICICI bank, Hosur and



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give an opportunity to both the parties for examination and cross examination and complete the case within a period of two months from the date of receipt of a copy of this order.

Index : Yes/No
Internet : Yes/No
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To

The Judicial Magistrate,
Fast Track Court, Hosur.



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V.SIVAGNANAM ,J.

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