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CrI.R.C.No.1402 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2023

CORAM:

The Hon'ble MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CrI.R.C.No.1402 of 2019

Indhirani

...Petitioner/Appellant/
Accused

-Vs-

P.Senthilkumar

...Respondent/Respondent/
Complainant

Prayer:- Criminal Revision Petition filed under Section 397(1) read with 401 of Cr.P.C, to set aside the judgment of the learned Principal Sessions Court, Erode in C.A.No.36 of 2019 dated 08.04.2019 confirming the judgment passed by the learned Judicial Magistrate Court (Fast Track Court No.II), Erode in S.T.C.No.468 of 2016 dated 05.01.2019 by allowing the present Criminal Revision Petition.

For Petitioner : Mr.M.Karthik for M/s.I.C.Vasudevan

For Respondent : Mr.V.Regunathan, Advocate

ORDER

This Criminal Revision Petition has been filed to set aside the judgment of the learned Principal Sessions Judge, Erode in C.A.No.36 of 2019, dated 08.04.2019, confirming the judgment passed by the learned Judicial Magistrate, Fast Track Court No.II, Erode in S.T.C.No.468 of



2016, dated 05.01.2019 by allowing the present Criminal Revision Petition.

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2. The learned Counsel for the Revision Petitioner / Accused submitted that the Revision Petition has been filed against the Judgment of the Trial Court and the Appellate Court for not considering the evidence in the cross examination of the complainant as PW.1 regarding the defence of the accused. The defence of the accused is that there was no legally enforceable liability for the accused. The husband of the Accused had purchased a plot from the complainant for Rs.2,60,000/-. At the time of registration of sale deed, there was a shortage of Rs.20,000/- for which, the complainant himself came forward and advanced the said amount. As a security, the husband of the Accused had given signed blank cheque belonging to his wife. The complainant, at that time stated that on payment of Rs.20,000/-, the cheque will be returned. Within three months, the husband of the Accused settled the cheque amount of Rs.20,000/- to the complainant/PW.1. However, the complainant had not returned the cheque obtained from the husband of the Accused as security stating that the husband of the Accused had purchased the property from the complainant with a very low sale price and there is a difference of Rs.2,00,000/-



between the actual price and the sale price. If, only the said amount is paid, he will return the cheque and that is evident in the cross examination of PW.1. That was not considered by the learned Trial Judge and the Appellate Judge. Therefore, the Accused had come up with this Revision Petition and prays for allowing the same by setting aside the judgment of the Appellate Court and the Trial Court.

3. The learned Counsel for the Respondent objected to the contentions of the learned Counsel for the Appellant stating that even before the filing of the complaint, the complainant had issued Statutory notice, and it was received by the Accused. The Accused had opportunity to deny or reply to the contents of the Statutory notice. But, the accused after receipt of such notice did not offer any explanation or settled the dues as demanded in the Statutory notice. Therefore, the complainant proceeded with the complaint. Based on the evidence available before the Trial Court, the learned Trial Judge had rejected the defence of the accused and convicted the accused for the offence under Section 138 of Negotiable Instruments Act. The same plea was taken up in appeal. The same was rejected and judgment of the Trial Court was confirmed and therefore the



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same cannot be accepted. Hence, the learned Counsel for the respondent seeks to dismiss this Revision Petition as it has no merits.

4. The evidence cannot be considered in revision. Only if there is either interpretation of the law by the Trial Court or by the Appellate Court or any technicality of law is involved during adjudication, the same can be raised in Criminal Revision.

5. The submission of the learned Counsel for the Revision Petitioner is that there was no enforceable liability which had already been considered by the Trial Court and the same has been rejected. Therefore, the contention of the learned Counsel for the Revision Petitioner is rejected and the contention of the learned Counsel for the Respondent is accepted. This Criminal Revision Petition does not have any merits.

6. In the light of the above discussion, this **Criminal Revision Case stands dismissed and this Court directs the Revision Petitioner to surrender before the learned Judicial Magistrate Court, Fast Track**



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Court No.II, Erode within 15 days, failing which the Respondent will initiate steps to declare him as proclaimed offender.

28.07.2023

drl

Index : Yes/No

Speaking/Non-speaking order

To

1.The Judicial Magistrate Court,
Fast Track Court No.II, Erode.

2.The Principal Sessions Judge,
Erode.



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SATHI KUMAR SUKUMARA KURUP, J.,

drl

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