



Crl.R.C.No.1603 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1603 of 2022 and
Crl.M.P.No.19205 of 2022

Ramesh

... Petitioner

Vs.

Dharmasingh

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Criminal Procedure Code, to set-aside the order of the learned 1st Additional District & Sessions Judge, dated 29.09.2022 made in C.M.P.No.125 of 2020 in C.A.No.64 of 2018.

For Petitioner : Mr.K.Mahalingam
For Respondent : Mr.C.Iyyapparaj

ORDER

This Criminal Revision Case has been filed to set aside the impugned order, dated 29.09.2022 in Crl.M.P.No.125 of 2020 in C.A.No.64 of 2018 passed by the learned I Additional District and Sessions Judge, Tindivanam (lower appellate Court).

2.The petitioner/accused in S.T.C.No.294 of 2010, a private complaint filed by the respondent for offence under Section 138 of the Negotiable



Instruments Act, 1881, was convicted by the learned Judicial Magistrate,

Gingee *vide* judgment, dated 20.06.2018. As against the conviction and sentence, the petitioner preferred an appeal before the lower appellate Court in C.A.No.64 of 2018. During the pendency of the appeal, the petitioner filed a petition under Section 391 Cr.P.C., to receive additional documents which are as follows:

1. The various suits filed by the respondent/complaint for recovery of money, in O.S.No.151 of 2018, O.S.No.165 of 2018, O.S.No.173 of 2018 and O.S.No.194 of 2018 on the files of the Sub-Court, Gingee to prove that the respondent/complainant is mainly doing money lending business of various interest.
2. The book of accounts maintained by him for the financial years 2014-15, 2015-16 and 2016-17.
3. The bank passbook/bank statement of accounts of the respondent/complainant bank/banks for the years 2014-15, 2015-16 and 2016-17 to prove the alleged transactions with me.
4. The income-tax returns filed by the respondent/complainant with the Income-tax Authorities for the years 2014-15, 2015-16 and 2016-17 and thus render justice.



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3.The lower appellate Court dismissed the petition under Section 391 Cr.P.C., *vide* order, dated 29.09.2022, against which, the present criminal revision case.

4.The contention of the petitioner is that the respondent, who is a retired Headmaster, in his evidence stated that he is not in the money lending business, on the other hand, he filed civil suit for recovery of money from various persons. The respondent is a total stranger to the petitioner. The petitioner knew only one Saroja, who is a vendor along with the petitioner. The said Saroja used to act as a front person to the respondent. The petitioner was having all the dealing with the said Saroja only, this fact was also questioned to the petitioner, who denies the same. The petitioner taking advantage of the cheque which was given to Saroja in a chit transaction, had filled up the same and used the same as though the petitioner is liable to pay a sum of Rs.5,00,000/-. These facts have been raised by way of cross examination with the respondent. Further, the petitioner also examined himself as DW1. In his evidence, he stated that he gave certain of the cheques to one Elumalai of Jayankondam and some of these transactions and particulars have been misused by the petitioner. The petitioner to prove his innocence filed this petition to



produce summon and mark certain documents as additional evidence. The lower appellate Court failed to consider the same and further citing delay in progress of the trial before the trial Court, had dismissed the petition. Hence, he prayed for setting aside the impugned order.

5.Mr.C.Iyyapparaj, learned counsel appearing for the respondent submitted that the cheque is of the year 2015, the case filed before the trial Court in the year 2016, the trial Court had rendered a judgment of conviction in the year 2018, thereafter, the petitioner filed an appeal before the Sessions Court in the year 2018. From the year 2018, for one or other reason, the petitioner has been successfully dragging on the appeal. At one stage, the petitioner's appeal was dismissed due to non-compliance of the conditional order passed against the petitioner to deposit the 20% of the cheque amount. Thereafter, the petitioner made a representation before lower appellate Court stating that at the intervention of known persons, a panchayat held and the issue between the petitioner and the respondent would be sorted out shortly. Considering the same, the appeal was restored on 02.03.2022 in Crl.M.P.No.1194 of 2020, thereafter too, the petitioner is again delaying the progress of the appeal and finally, filed the petition under Section 391 Cr.P.C., before the lower appellate Court. The lower appellate Court in the impugned



order extracted the petitioner's conduct from the adjudication of the trial Court and finding the petitioner's contention is not sustainable, dismissed the petition.

He further submitted that the petition under Section 391 Cr.P.C., is yet another ploy to further drag on the appeal. The production of above said documents as additional evidence would no way further the case of the petitioner, hence, he prayed for dismissal of the criminal revision.

6.Considering the submissions and on perusal of the materials, it is seen that the petitioner's conduct in conducting the case from trial to the appellate stage is extracted in the impugned order by the lower appellate Court which needs no further elaboration. It is further seen that the petitioner seeks to receive additional documents and evidence regarding civil suits, but in which, the petitioner is not a party. Further, he seeks books of account, Income Tax Returns and statements of account maintained by the respondent. Nowhere, in the petition or evidence during cross examination had given reason how these documents would further the case of the petitioner and what are the transactions no particulars and no details have been given. It is fishing in the dark. It is nothing but an yet another instant to delaying the progress of the appeal before the lower appellate Court.



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7. In view of the same, this Court is not inclined to entertain this revision and the revision is dismissed confirming the impugned order, dated 29.09.2022 passed by the lower appellate Court. The lower appellate Court is directed to conclude the appeal, within three months, from the date of receipt of a copy of this order. The connected Miscellaneous Petition is also closed.

30.10.2023

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

Index : Yes/No

Internet : Yes/No

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To

The I Additional District & Sessions Court,
Tindivanam.

Note: Issue Order Copy on 08.11.2023.



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M.NIRMAL KUMAR, J.

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