



Crl.R.C.No.2017 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.2017 of 2023 and
Crl.M.P.No.18620 of 2023

A.Arunkumar

... Petitioner

Vs.

N.Gobinath

... Respondent

Prayer: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to set aside the order dated 19.10.2023 in Crl.M.P.No.1783 of 2019 in C.C.No.287 of 2013 on the file of the Court of Judicial Magistrate, Mettupalayam and consequently allow the Crl.M.P.No.1783 of 2019 in C.C.No.287 of 2013 as prayed for.

For Petitioner : Mr.T.Saikrishanan

ORDER

This Criminal Revision Case has been filed to set aside the order, dated 19.10.2023 in Crl.M.P.No.1783 of 2019 in C.C.No.287 of 2013 passed by the learned Judicial Magistrate, Mettupalayam.

2.The petitioner/accused in C.C.No.387 of 2013 has filed a petition under Section 45 of the Indian Evidence Act, to send the original cheque,



dated 15.07.2023 which is marked as Ex.P2 for forensic examination since there is overwriting of number '2' in the year 2013, which according to petitioner it is material alteration under Section 87 of the Negotiable Instruments Act, 1881. The learned Judicial Magistrate, Mettupalayam, by order, dated 19.10.2023 dismissed the petition and observed in paragraph No.8 as follows:

“8. Further, though as per the allegation of the petitioner if there is any material alteration in the number of the year 2013, what material alteration can be done, probably either 1 can be altered to 2, but during the 20th century there is no possibility to enter number one in the cheque, so there is no possibility to alter the number to 2 in the cheque, there is no probability for that. Hence, there is no possibility of material alteration in the cheque.”

3.The learned counsel for the petitioner submitted that the finding of the learned Magistrate regarding material alteration in the number '2' of the year 2013 will not affect the case in any manner is contrary to the settled position of law since the material document affects the validity of the document itself. He further submitted that the observation in paragraph



No.8 of the impugned order caused great prejudice to the petitioner and his right of probablizing the defense is curtailed. Hence, he prays for setting aside the impugned order.

4.Considering the submissions and on perusal of the materials, it is seen that the case in C.C.No.287 of 2013 is at the penultimate stage, the evidence on both sides completed, the petitioner was examined under Section 313 Cr.P.C. Though overwriting in the number '2' of the year 2013 is apparent, that would not affect the case of the petitioner as well as the respondent.

5.The only objection of the learned counsel for the petitioner is that the observation made in paragraph No.8 of the impugned order would affect the petitioner's defence.

6.In view of the above, the observation made in paragraph No.8 of the impugned order not to be looked against the petitioner in any manner and the trial Court to proceed with the trial, decide the case on its own merits



Crl.R.C.No.2017 of 2023

and in accordance with law based on the evidence and materials available.

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7.With the above observations, this Criminal Revision Case stands dismissed confirming the impugned order, dated 19.10.2023 passed by the learned Judicial Magistrate, Mettupalayam in Crl.M.P.No.1783 of 2019 in C.C.No.287 of 2013. The connected Miscellaneous Petition is closed.

27.11.2023

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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To

The Judicial Magistrate Court,
Mettupalayam.



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CrI.R.C.No.2017 of 2023

M.NIRMAL KUMAR, J.

vv2

CrI.R.C.No.2017 of 2023

27.11.2023