



CrI.R.C.(MD).No.992 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :22.09.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CrI.R.C.(MD).No.992 of 2023

and

CrI.M.P.(MD).No.12788 of 2023

Dr.D.Geethanjali

... Petitioner

Vs.

M.Muthurajan

... Respondent

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the records of the learned Judicial Magistrate No.I, (FTC), Madurai in Cr.M.P.No.1303 of 2022 in S.T.C.No. 341 of 2018 dated 20.07.2023 and set aside the same.

For Petitioner : Mr.R.Mariappan

For Respondent : Mr.D.Kirubakaran



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ORDER

This Criminal Revision Case has been filed as against the order passed by the learned Judicial Magistrate No.I, (FTC), Madurai, in Cr.M.P.No.1303 of 2022 in S.T.C.No.341 of 2018 dated 20.07.2023.

2.The petitioner is the accused in S.T.C.No.341 of 2018, the proceeding was initiated by the respondent herein against the petitioner for the offence punishable under Section 138 of the Negotiable Instruments Act (herein after called as NI Act).

3.The brief facts of the case is that, the complainant as well as the petitioner and her husband are well known to each other for several years. On the basis of the relationship, the petitioner borrowed a sum of Rs.11,50,000/- from the respondent/defacto complainant for the development of the hospital and family expenses and she also agreed to repay the said amount with interest of 18% per annum. On such circumstances, the petitioner executed a pro-note in favour of the complainant on 31.03.2017. The total outstanding comes around a sum of



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Rs.13,00,000/-. The petitioner agreed to repay the said loan by way of cheque. Thereafter, the petitioner issued a cheque bearing No.01076987, dated 15.03.2018 drawn on Tamil Nadu Mercantile Bank, T.T.K.Road Branch, Chennai. When the respondent/complainant presented the cheque for collection on 15.03.2018, it was returned on 16.03.2018 due to insufficient funds. Thereafter, he issued legal notice and filed a private complaint against the petitioner for the offence under Section 138 of the Negotiable Instruments Act r/w Section 200 of Cr.P.C.

4. Thereafter, the said complaint was taken on file in S.T.C.No. 341 of 2018. The case was pending before the learned Judicial Magistrate No-I, Fast Track court, Madurai for the past 5 years. The accused did not appear before the Court, therefore, NBW was issued and the same was recalled. Pending the same, the petitioner filed the petition before the trial Court for settlement. Subsequently, after commencement of the proceedings, the petitioner took a different stand that she did not issue the cheque and her prayer to seek opinion under Section 45 of the Indian Evidence Act was declined by the Court below. Challenging the same, she filed the present



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criminal revision case before this Court.

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5. The learned counsel for the petitioner submitted that according to the complainant, three legal notices were sent and they were not served upon her and hence she was unable to send any reply. Further, her specific case is, she disputed the signature in the cheque. Hence, the learned trial Judge committed error in dismissing the petition without offering opportunities and so there is an infraction of Article 21 of the Constitution of India. Hence, he seeks to set aside the order passed by the Court below.

6. The learned counsel for the respondent submitted that the alleged contention is that three notices were issued and the same were returned without service is not correct. The notice was returned with endorsement as "unclaimed". The petitioner was residing in the same address, and intentionally evaded the service of notice and hence, the subject matter of the petition is for main adjudication. The learned counsel for the respondent further submitted that the proceedings have commenced. The petitioner did not dispute the signature after the commencement of the



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trial and during examination of the witnesses. She took a stand that she did not sign the cheque. She would further submit that she filed the petition before the Court below for settlement. Thereafter, the settlement ended in failure and hence, the request of the petitioner is not *bonafide* and hence, he seeks for dismissal of the order confirming the order passed by the Court below.

7. This Court considered the submissions made on either side and perused the materials available on record.

8. As rightly argued by the respondent that the petitioner stated that she was willing to settle the issues, which was observed by the learned trial Judge. Further, the petitioner has not made any claim in respect of the signature on earlier occasion. After she filed the petition before the Court below to settle the issue, she took a stand that she did not issue the cheque. The said submission is not accepted, the trial court correctly considered the issues on fact as well as law.



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9. Therefore, this Court finds no merit to interfere with the order passed by the learned trial Judge. Accordingly, this Criminal Revision Case stands dismissed. Consequently, connected miscellaneous petition is closed.

22.09.2023

NCC :Yes/No
Index :Yes/No
Internet :Yes/No
sbn



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To
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- 1.The Judicial Magistrate No.I(FTC),
Madurai.
- 2.The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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