



Crl.R.C.No.332 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2024

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.R.C.No.332 of 2024
and Crl.M.P.No.3072 of 2024

R.Annakodi

... Petitioner

Vs.

N.Shanmugam

... Respondent

Prayer : Criminal Revision Petition filed under Section 397 r/w. 401 of Criminal Procedure Code, to set aside the order, dated 11.12.2023 passed in Crl.M.P.No.8624 of 2023 in S.T.C.No.419 of 2021 on the file of the learned Judicial Magistrate (Fast Track Court No.II), Erode.

For Petitioner : Mr.S.Arunprasath

ORDER

The Criminal Revision is filed, challenging the order, dated 11.12.2023 passed in Crl.M.P.No.8624 of 2023 in S.T.C.No.419 of 2021 by the learned Judicial Magistrate (Fast Track Court No.II), Erode.



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2. The facts of the case are that the petitioner is the complainant and she filed a complaint under Section 138 of Negotiable Instruments Act before the learned Judicial Magistrate (Fast Track Court No.II), Erode against the respondent alleging that the respondent has borrowed a sum of Rs.3,00,000/- from the petitioner and in order to discharge the liability, the respondent has issued a cheque bearing No.151518 dated 17.12.2020 for the said amount and when it was presented before the Bank, it was returned with an endorsement "funds insufficient". Thereby, the petitioner issued statutory notice to the respondent, however, no reply was given which triggered the petitioner to file a complaint before the trial Court. During trial, the petitioner has filed a petition under Section 216 Cr.P.C to alter the charge from Section 138 of Negotiable Instruments Act to Sections 406, 420, 467, 468 and 471 IPC and it was dismissed vide impugned order dated 11.12.2023. Challenging the same, the present petition has been filed.



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3. The learned counsel appearing for the petitioner submits that the trial Court have power to alter or add any charge at any time before judgment is pronounced and it is a clear case of cheating and forgery, since the respondent/accused has cheated the petitioner to the tune of Rs.3,00,000/- and therefore, the offences under Sections 406, 420, 467, 468 and 471 IPC would attract. However, the trial Court, overlooking the above aspects, dismissed the petition filed by the petitioner.

4. Heard the learned counsel appearing for the petitioner.

5. The petitioner has filed a complaint under Section 138 of Negotiable Instruments Act against the respondent and it was taken on file in S.T.C.No.419 of 2021. During the trial, he has filed a petition under Section 216 Cr.P.C to alter the charge from Section 138 of Negotiable Instruments Act to Sections 406, 420, 467, 468 and 471 IPC and it was dismissed. As per Section 216 Cr.P.C, the Court have power



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to alter or add any charge at any time before judgment is pronounced, however, it has not been stated anywhere that either the prosecution or the defence side has power to file application to alter or add the charge. At the instigation of the complainant, charges cannot be altered and it is for the Court to decide as to whether the alteration of charge is necessary for rendering the opinion and the petitioner has no *locus standi* to file a petition for alteration of charges. The trial Court, appreciating the above points, has rightly dismissed the petition filed by the petitioner, which does not require any interference by this Court.

6. Accordingly, the Criminal Revision Case is dismissed.

Connected miscellaneous petition is closed.

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NCC: Yes/No

Index: Yes/No

Speaking/Non-Speaking order

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The learned Judicial Magistrate (Fast Track Court No.II),
Erode.

M.DHANDAPANI, J.

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