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Crl.R.C.Nos.1282 & 1283 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2024

CORAM:

THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

Crl.R.C.Nos.1282 and 1283 of 2024

and

Crl.M.P.Nos.11213 and 11215 of 2024

R.Rangaraj

... Petitioner in both Crl.R.Cs.

Vs.

Sree Gokulam Chits & Finance Co. Pvt. Ltd.,
Rep by its Legal Clerk,
Mr.Sriram, Gokulam Towers,
New No.66, Old No.356,
Arcot Road, Kodambakkam,
Chennai – 24.

... Respondent in both Crl.R.Cs.

PRAYER: Criminal Revision Cases filed under Sections 397 and 401 of Cr.P.C. praying to set aside the order passed by the learned II Additional Sessions Judge, City Civil Court in Crl.M.P.Nos.14943 & 14941 of 2023 in C.A.Nos.21 & 20 of 2019 by order dated 20.03.2024.

For Petitioner

: Mr.B.Singaravelu



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COMMON ORDER

These petitions have been filed seeking to set aside the order passed by the learned II Additional Sessions Judge, City Civil Court, Chennai in Crl.M.P.Nos.14943 & 14941 of 2023 in C.A.Nos.21 & 20 of 2019, respectively, by order dated 20.03.2024.

2.The petitioner/accused in C.C.Nos.4805 & 4808 of 2009 was convicted by the trial Court for offence under Section 138 of Negotiable Instruments Act and sentenced to undergo six months simple imprisonment and to pay the cheque amount of Rs.26,13,347/- and Rs.21,88,294/- respectively, as compensation. Aggrieved against the conviction, he preferred an appeal before the Sessions Court in C.A.Nos.21 and 20 of 2019, respectively, which is pending before the III Additional Sessions Judge, City Civil Court, Chennai, in which, the petitioner filed a petition under Section 391 of Cr.P.C. to examine the bank Manager of erstwhile Syndicate Bank,



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Mettupalayam Branch presently merged with Canara Bank, Annur Road, Mettupalayam, as additional witness.

3.The contention of the learned counsel for petitioner is that the petitioner had given some blank cheques for security purpose in the year 1996 while joining the Chit scheme with the respondent. The respondent used cheque Nos.277770 and 277768 and filled up the date as 17.11.2008 for a sum of Rs.26,13,347/- and Rs.21,88,294/- respectively, presented the same for collection and thereafter lodged a complaint. According to the petitioner, the cheques have become stale for the reason that the cheques were issued in the year 1993 to the petitioner, which he issued to the respondent in the year 1996. According to the directions and norms of Reserve Bank of India, the cheques issued without MICR code became stale after the year 2000 and in this case admittedly though the cheques are dated 17.11.2008, it is not MICR code, hence it would prove that the security cheques which were given in the year 1996 have been misused by the respondent/complainant. For this limited



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purpose he needs to examine the Bank Manager of Syndicate Bank
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Mettupalayam Branch, which is now merged with Canara Bank, as witness to
prove this fact.

4.From the counter filed by the respondent before the Lower
Appellate Court, it is seen that the petitioner not disputed the issuance of
cheques, signature or the amount in the cheques. He is now taking a technical
plea, which is a known fact that the substitution of new cheques with MICR
code is from the year 2000. The cheques were returned not for the reason that
it is invalid or stale but for the reason that there is no sufficient amount in the
petitioner's bank account. In such circumstances, the petitioner make such
plea. As per the Negotiable Instruments Act, the date found in the cheque is
to be taken as date of drawing of the cheque and not otherwise.

5.Considering the submissions made by the learned counsel for
petitioner and on perusal of the material, it is clear that the petitioner is not



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disputed his signature or the issuance of the cheques. His only objection is that the cheques which were issued in the year 1996 as security has been misused in the year 2008. It is a matter of fact, which can be decided during trial and appeal, for which the examination of the Bank Manager is not required. Hence, this Court finds no reason to interfere with the reasoned order passed by the Lower Court.

6. Accordingly, these Criminal Revision Cases are dismissed.

Consequently, connected Criminal Miscellaneous Petitions are closed.

08.08.2024

Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order

Neutral citation: Yes/No

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M.NIRMAL KUMAR, J.

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To

1.The II Additional Sessions Judge,
City Civil Court, Chennai.

2.The Public Prosecutor,
High Court, Madras.

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and

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