



Crl.R.C.No.1522 of 2017

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2024

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

Crl.R.C.No.1522 of 2017
and Crl.M.P.Nos.15100, 15101 and 15102 of 2017

S.Indirani

... Petitioner

vs.

M/s.Sky Field India Private Ltd.,
A Company Registered Under the
Companies Act, 1956, Having its
Office at No.19, Jayammal Street,
Teynampet, Chennai-600 018, by its
Alleged Managing Director,
Sri.S.Malairajan

... Respondent

Prayer: Criminal Revision Case filed under Section 397 read with 401 of the Criminal Procedure Code, praying to set aside the judgment and orders dated 31.10.2017 passed in C.A.No.242 of 2014 by the XVIII Additional Sessions Judge, Chennai confirming the judgment and orders dated 01.09.2014 passed in C.C.No.6776 of 2008 by the learned Metropolitan Magistrate, Fast Track Court-IV, George Town, Chennai.

For Petitioner : Mr.N.K.Ponraj

For Respondent : Mr.N.Sudharsan

ORDER



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Challenging the conviction and sentence passed by the XVIII Additional Sessions Judge, Chennai in C.A.No.242 of 2014, dated 31.10.2017, confirming the conviction and sentence passed by the learned Metropolitan Magistrate, Fast Track Court-IV, George Town, Chennai in C.C.No.6776 of 2008, dated 01.09.2014, the present Criminal Revision case is filed by the accused.

2. For the sake of convenience, the parties are referred to as per their ranking in the Trial Court and at appropriate places, their rank in the present criminal revision would also be indicated.

3. The case of the respondent/complainant in a nutshell is as follows:

The complainant and the revision petitioner had business transaction and during the course of said transaction, a sum of Rs.63,77,594/- was due and liable to be paid by the revision petitioner. The revision petitioner in order to liquidate the said amount, issued a cheque (Ex.P2) bearing No.094697, dated 28.02.2008 drawn on State



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Bank of Patiala, Chennai for a sum of Rs.1,00,000/- in favour of the respondent/complainant. When the cheque was presented by the complainant for collection through his bankers viz., UCO Bank, Saidapet, Chennai and the same was returned (Ex.P3) on 30.07.2008 for the reason “Payment stopped by Drawer”, as is seen from the cheque return memo dated 05.08.2008 (Ex.P4). Thereafter, the respondent/complainant issued a legal notice dated 08.08.2008 (Ex.P5) to the revision petitioner/accused demanding the latter to pay the amount due under the cheque (Ex.P2) within a period of 15 days from the date of receipt of the notice. According to the complainant, though the revision petitioner/accused received the said notice on 11.08.2008, as is evidenced by the postal acknowledgement card (Ex.P6), she did not come forward to make good the payment and did not also send any reply notice.

4. Therefore, the respondent/complainant filed a private complaint under Section 200 Cr.P.C., before the Metropolitan Magistrate, Fast Track Court-IV, George Town, Chennai in C.C.No.6776 of 2008 against the revision petitioner/accused for the offence punishable under



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Section 138 of the Negotiable Instruments Act. The learned Metropolitan Magistrate took cognizance of the offence punishable under Section 138 of the Negotiable Instruments Act and issued summons to the accused/revision petitioner under Section 204 Cr.P.C. On appearance of the accused, the Metropolitan Magistrate furnished copies of the records to her under Section 207 Cr.P.C. When the revision petitioner/accused was questioned with regard to the substance of accusation made against her, she pleaded not guilty. Therefore, the case was posted for trial.

5. The respondent/complainant examined himself as PW.1 and marked Ex.P1 to Ex.P6. When the accused was questioned under Section 313(1)(b) Cr.P.C., with regard to the incriminating circumstances appearing in evidence against her, she denied of having committed any offence. She marked Ex.D1 to Ex.D4.

6. The learned Metropolitan Magistrate, after analysing the oral and documentary evidence on record, convicted the accused for the offence punishable under Section 138 of the Negotiable Instruments Act



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and sentenced her to undergo simple imprisonment for a period of one year and to pay a sum of Rs.1,00,000/- to the complainant towards compensation under Section 357(3) Cr.P.C., vide his judgment dated 01.09.2014.

7. Aggrieved over the same, the revision petitioner/accused filed an appeal in C.A.No.242 of 2014 before the XVIII Additional Sessions Judge, Chennai. The learned Sessions Judge, after analysing the oral and documentary evidence on record, concurred with the findings of the trial court and confirmed the conviction and sentence vide his judgment dated 31.10.2017, aggrieved over which, the present criminal revision case is filed.

8. At the outset, it may be observed that the accused admitted her signature on the cheque (Ex.P2). Once the signature is admitted, there is a presumption under Sections 118 and 139 of the Negotiable Instruments Act, 1881, unless the contrary is proved by the accused.



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9. The revision petitioner had not also denied her liability to pay the amounts under various cheques issued by her and this is seen from the letter sent by the revision petitioner on 26.06.2007 (Ex.D2). In the said letter, the revision petitioner had requested the complainant to give her some breathing time to settle the issue. The complainant had also sent a reply (Ex.D3) dated 27.07.2007 to Ex.D2-letter requesting the revision petitioner to make good the payment as soon as possible. A perusal of Ex.D2 and Ex.D3 clearly shows that the revision petitioner had issued as many as 22 cheques in faovur of the complainant for the amount payable by her to the complainant.

10. Both the Courts below, by well reasoned orders, had found the revision petitioner guilty of the offence punishable under Section 138 of the Negotiable Instruments Act and convicted and sentenced the accused. All the observations made by both the Courts below are perfectly in order. Moreover, this Court while exercising the revisional jurisdiction under Section 397 and 401 Cr.P.C., cannot act as a Second Appellate Court, especially when both the Courts below had rendered



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concurrent findings on the basis of proper appreciation of evidence. In the circumstances, I do not see any reason to interfere with the same.

11. In the result,

- (i) The Criminal Revision Petition stands dismissed. No costs. Consequently, the connected criminal miscellaneous petitions are closed.
- (ii) The judgment dated 31.10.2017 passed by the XVIII Additional Sessions Judge, Chennai in C.A.No.242 of 2014 and the judgment dated 01.09.2014 passed by the Metropolitan Magistrate, Fast Track Court-IV, George Town, Chennai in C.C.No.6776 of 2008, are confirmed.
- (iii) The revision petitioner/accused shall surrender before the learned Metropolitan Magistrate, Fast Track Court-IV, George Town, Chennai, within 15 days from the date of receipt of a copy of this



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**18.04.2024
(11/11)**

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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- To
- 1.The XVIII Additional Sessions Judge,
Chennai.
 - 2.The Metropolitan Magistrate,
Fast Track Court-IV,
George Town, Chennai.



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R. HEMALATHA, J.
dm

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