



Crl.M.P.No.17193 of 2023 in Crl.R.C.No.1813 of 2023

Crl.M.P.No.17193 of 2023 in
Crl.R.C.No.1813 of 2023

WEB COPY

M.NIRMAL KUMAR, J.

This Court on 20.03.2024 had passed the following order:

“The petitioner was convicted by the learned Judicial Magistrate, Fast Track Court No.I @ Magistrate Level, Coimbatore (Trial Court) in C.C.No.20 of 2016 vide judgment, dated 20.12.2019 and sentenced to undergo simple imprisonment for six months and to pay compensation of Rs.15,00,000/- within two months failing which the petitioner to undergo two months imprisonment. Challenging the same, the petitioner preferred an appeal before the learned IV Additional District & Sessions Judge, Coimbatore (lower appellate Court) in Crl.A.No.53 of 2020 and the same was dismissed vide judgment, dated 28.07.2023 confirming the judgment of the trial Court, dated 20.12.2019. Challenging the same, the present criminal revision case.

2.The contention of the petitioner is that the respondent is a moneylender who has been fleeced the petitioner by charging exorbitant interest. Earlier the petitioner took loan from the respondent and he repaid the same. While taking loan, three documents in Nos.4596 of 2003, 4595 of 2003 and



82 of 2019 of the petitioner's wife retained by the respondent as security along with some singed blank documents. The respondent used to visit the petitioner in his shop for collecting loan and interest. On one such occasion, the respondent has got access to the cheque, took the same, filled up, affixed signature and projected the case against the petitioner. The bank return memo (Ex.P2) would confirm that the cheque returned for the reason that the signature differs. The contention of the petitioner is that the petitioner confronted with PW1 in this aspect and though the respondent denied the same, he was unable to give proper reason. The respondent admits that he is lending money for interest and that the sale agreement had been entered between his brother's wife Thulasi Mani and the petitioner. Since the said Thulasi Mani was unable to complete the agreement within the stipulated time, the petitioner thereafter refused to execute the sale agreement. For this reason, the respondent foisted a false case forging the petitioner's signature. Ex.P5 is the promissory note. From the naked eye, it is visible that the signature in Exs.P5 & P1 are in total variance. The petitioner produced the copy of the same and referred during his arguments.

3.The learned counsel for the respondent submitted that the petitioner's contention is not acceptable for the reason that



the petitioner was served with the statutory notice, but not denied the same or taken a defence what he is now propounded. For the first time during trial the petitioner are taking advantage of the cheque, returned for the signature variance made such a stand. He further submitted that as regards the document Nos.4596 of 2003, 4595 of 2003 & 82 of 2019, he would get instructions and report.

*4.The learned counsel for the respondent relied upon the judgment of the Hon'ble Apex Court in the case of **"Ajitsinh Chehuji Rathod Versus State of Gujarat and another** reported in **2024 SCC OnLine SC 77**" wherein the Hon'ble Apex Court held that if the person is denied his signature, he has to confront the same, produce witness and to prove the same as per Section 73 of the Indian Evidence Act. The learned counsel for the petitioner refuted the same stating that the citation referred by the petitioner is with regard to non disputing the signature found in the cheque. For the facts and circumstances of the case, it cannot be considered.*

5.The learned counsel for the petitioner without prejudice submits that the petitioner is ready to pay Rs.10,00,000/- by way of demand draft to give quietus to all the issues if the respondent is ready to handover the three documents mentioned above and signed blank documents, which received in the year 2017. His apprehension is that



these documents would be used later for filing some more cases.

6.In reply, the learned counsel for the respondent seeks time to get further instructions.

7.Post the matter on 26.03.2024 under the caption 'For Orders'."

2.In continuation and conjunction to the above order, this Court is passing the following order.

3.The learned counsel for the respondent not seriously disputed the retention of documents No.452 of 2009 and deed of amendment in document No.82 of 2019 with all parent documents and document Nos.4595 & 4596 of 2003. His objection is that there are several transactions between the petitioner and the respondent and the cheque in question pertains to one of such transactions. The above said documents, stamp papers, promissory note and cheques executed by the petitioner pertains to other transactions, for which, the respondent is not contemplated to proceed against the petitioner and it cannot be confined to Rs.10,00,000/- as projected by the



petitioner. It is much more. Hence, the respondent is not willing to accept the proposal of the petitioner. He further submitted that though the petitioner had raised several grounds, he has not produced any evidence or material to substantiate the same and probablize his defence.

4.At this stage, the learned counsel for the petitioner submits that the above said documents are with the respondents and he is using the criminal proceedings against the petitioner to extract more money from the petitioner and to deprive his properties.

5.In view of the above, the Substantive Sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the revision and he is ordered to be enlarged on bail, on condition that she shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, each for a like sum to the satisfaction of the trial Court.

6.Further, the petitioner shall appear before the Trial Court on the first working day of once in three month at 10.30 a.m. until the disposal of



Crl.M.P.No.17193 of 2023 in Crl.R.C.No.1813 of 2023

the criminal revision and if she is not able to appear before the Trial Court on that day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of his absence as directed by the Trial Court. Accordingly, this Miscellaneous Petition is ordered.

26.03.2024
(2/3)

vv2



WEB COPY



Crl.M.P.No.17193 of 2023 in Crl.R.C.No.1813 of 2023

M.NIRMAL KUMAR, J.

vv2

Crl.M.P.No.17193 of 2023 in
Crl.R.C.No.1813 of 2023

26.03.2024
(2/3)