



Crl.R.C. No.1457 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2024

CORAM

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

Crl.R.C. No. 1457 of 2019

Sri Hari Finance

Represented by its Authorized Power Agent,

Mr.P. Sivakumar, S/o. K. Panchatsharam,

No.3/1-B, Vallal Panchaiyappan Street,

Kanchipuram Town,

Kanchipuram District 631 501

...Petitioner

Vs.

L. Johnson

...Respondent

Prayer: Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C. against the order dated 22.07.2019 in C.M.P. No.16 of of 2019 in Criminal Appeal No.10 of 2017 on the file of the Additional Sessions Court (Fast Track Court) Kanchipuram.

For Petitioner : Mr. P. Ebenezer Paul

For Respondent : No appearance.



CrI.R.C. No.1457 of 2019

WEB COPY

ORDER

Challenging the orders passed in C.M.P. No.16 of 2019 on the file of the Additional Sessions Court (Fast Track Court) Kanchipuram, the present Criminal Revision Case is filed by the complainant.

2. The brief case of the petitioner/complainant is as follows:

- i. The respondent/accused borrowed a sum of Rs.4,80,000/- from the complainant on 26.06.2001 and executed a Pronote (Ex.P3) promising to repay the same together with interest @ 24% per annum. The accused paid a sum of Rs.8,400/- on 24.11.2003 and Rs.25,000/- on 23.09.2004 towards interest and subsequently failed to repay the balance.
- ii. When the complainant demanded the accused to repay the balance amount with interest, the accused did not pay any amount and after much persuasion, he handed over a post dated cheque (Ex.P5), drawn on Tamil Nadu Mercantile Bank, Idalaikudi Branch, Nagercoil District, dated 11.03.2006 for Rs.6,73,400/-.



Crl.R.C. No.1457 of 2019

WEB COPY

- iii. When the cheque was presented for collection on 11.03.2006 by the petitioner/complainant through his banker namely City Union Bank, Kanchipuram Branch, the same was returned on 15.03.2006 for the reason 'insufficient funds', as is seen from the Cheque return memo (Ex.P6).
- iv. Thereafter the complainant issued a legal notice dated 13.04.2006 (Ex.P7) to the accused demanding the latter to pay the amount due under the cheque (Ex.P5).
- v. The accused though received the notice on 22.04.2006, as is evidenced by the postal acknowledgment card (Ex.P8), he did not come forward to make good the payment and did not also send any reply.
- vi. Therefore the complainant filed a private complaint under Section 200 Cr.P.C. against the accused for an offence punishable under Section 138 of the Negotiable Instruments Act in C.C.No.271/2006 before the Judicial Magistrate No.1, Kancheepuram.
- vii. The learned Judicial Magistrate No.1, Kancheepuram., took



Crl.R.C. No.1457 of 2019

WEB COPY

cognizance of the offences and issued summons to the accused under Section 204 Cr.P.C. On the appearance of the accused, the copies of the case records were furnished to him under Section 207 Cr.P.C. The substance of accusation made in the complaint was put to the accused and since the accused pleaded not guilty, the matter was posted for trial.

viii. The complainant examined one Ashokan, his power agent as P.W.1 and marked Ex.P1 to Ex.P8.

ix. Thereafter the accused was questioned under Section 313(1)(b) Cr.P.C. with regard to the circumstances appearing in evidence against him. The accused admitted the borrowal and also execution of pronote, execution of Equitable Mortgage, repayments made on 24.11.2003 and 23.09.2004 and the issuance of the cheque Ex.P5 to the complainant.

x. After full trial, the learned trial court judge, vide his judgment dated 13.03.2008 convicted the accused for an offence punishable under Section 138 of the Negotiable Instruments Act and sentenced him to undergo Rigorous Imprisonment for a period of two years



Crl.R.C. No.1457 of 2019

WEB COPY

and to pay a sum of Rs.6,00,000/- towards compensation to the complainant under Section 357(3) Cr.P.C., in default, to undergo simple imprisonment for a period of three months.

xi. Aggrieved over the same, the respondent/accused filed an appeal in C.A. No.10/2017 before the Additional Sessions Judge (Fast Track Court), Kancheepuram. The complainant filed a petition in C.M.P. No.16/2019 in C.A. No.10/2017 seeking enhancement of compensation from Rs.6,00,000/- to Rs.15,46,734/-.

xii. The learned appellate Court judge, after analysing the oral and documentary evidence, vide her judgment dated 22.07.2019 in C.A. No.10/2017 acquitted the accused of the offence under Section 138 of the Negotiable Instruments Act and dismissed the petition filed by the complainant in C.M.P. No.16/2019 seeking for enhancement of compensation.

xiii. Aggrieved over the orders dated 22.07.2019 passed by the Additional Sessions Judge (Fast Track Court), Kancheepuram, in



Crl.R.C. No.1457 of 2019

WEB COPY C.M.P. No.16/2019, the complainant has filed the present Criminal Revision Case.

3. Heard Mr. P. Ebenezer Paul, learned counsel for the petitioner. Though the name of the respondent is printed in the cause list after issuing notice to him, there is no representation on behalf of the respondent.

4. It is seen from the records that the complainant did not file any appeal against the judgment and orders passed in C.A. No.10/2017 and therefore, the petitioner cannot file the present Criminal Revision Case as against the orders passed in Crl.M.P. No.16/2019. When the appellate court had acquitted the accused in C.A. No.10/2017, there is no question of paying any compensation to the complainant.

5. Accordingly, the Criminal Revision Case stands dismissed.



Crl.R.C. No.1457 of 2019

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03.04.2024

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
bga

To

The Additional Sessions Judge (Fast Track Court)
Kanchipuram.



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Crl.R.C. No.1457 of 2019

R. HEMALATHA, J.
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Crl.R.C. No.1457 of 2019

03.04.2024