



Crl.R.C.No.90 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.90 of 2024  
and Crl.M.P.No.730 of 2024

Chandrasekaran

... Petitioner

Vs.

R.Rajan

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to call for the records culminating in Crl.M.P.No.746 of 2023 in C.A.No.104 of 2022 on the file of the Additional District and Sessions Judge at Namakkal order dated 06.11.2023 and set aside the same.

For Petitioner : Mr.Ali Hassan Khan

ORDER

This Criminal Revision Petition is filed to set aside the order passed by the learned Additional District and Sessions Judge at Namakkal in Crl.M.P.No.746 of 2023 in C.A.No.104 of 2022 dated 06.11.2023.



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2.The petitioner is an accused on a private complaint filed by the respondent for the offence under Section 138 of Negotiable Instruments Act in C.C.No.70 of 2015 before the learned Judicial Magistrate, Rasipuram. The Trial Court by judgment dated 22.11.2022 convicted the petitioner and sentenced to undergo one year simple imprisonment and directed to pay the cheque amount of Rs.25,00,000/- to the complainant within one month, in default to undergo a further period of one month simple imprisonment. Against which, the petitioner preferred an appeal in C.A.No.104 of 2022 before the Principal District and Sessions Court, Namakkal. Thereafter, the petitioner filed a petition under Section 391(1) Cr.P.C. in CrI.M.P.No.746 of 2023 to adduce additional evidence since the petitioner obtained the Fingerprint Expert opinion confirming that the fingerprint available in Ex.P1/promissory note is not that of the petitioner. The Lower Appellate Court dismissed the said petition. Against which, the present revision petition is filed.

3.The contention of the learned counsel for the petitioner is that before



the Trial Court the respondent/complainant marked Ex.P1/promissory note said to have been executed on 01.05.2014 for a sum of Rs.25,00,000/- along with the two cheques Ex.P2 and Ex.P3 for Rs.15,00,000/- and Rs.10,00,000/- respectively. He would submit that the petitioner had not handed over the promissory note along with the cheques and the promissory note is a created document by the respondent. He would further submit that though it is a case under Section 138 of Negotiable Instruments Act, the Trial Court convicted the petitioner based on the evidence of P.W.1 and the two cheques/Ex.P2 and Ex.P3 along with Ex.P1/promissory note. He fairly submitted that the petitioner had not sent any reply at the initial stage and he examined himself as D.W.1 and gave an explanation to this effect. But the Trial Court had not considered the same.

4.Considering the submissions made and on perusal of the order passed by the Trial Court and other materials filed by the petitioner, it is seen that the Trial Court took the case on file in C.C.No.70 of 2015, the petitioner appeared before the Trial Court on 03.10.2017, thereafter the Trial Court proceeded with commencement of examination of witnesses from



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01.06.2018 and finally, after full-fledged trial judgment was pronounced on 22.11.2022. It is seen that in this case admittedly P.W.1 was examined in the year 2018 and Ex.P1 was marked in the year 2018 itself. Now it is seen that a Private Fingerprint Expert opinion was obtained in the year 2023 after filing of the appeal when Ex.P1/promissory note is in the custody of the Court. This fingerprint study was made with the photostat copy which cannot be said to be proper. Further, at this stage the petitioner taking such a defence is also not acceptable. In view of the same, this Court is not inclined to interfere with the order passed by the Lower Appellate Court.

5. Accordingly, the Criminal Revision Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

23.01.2024

cse  
Speaking Order/Non Speaking Order  
Index : Yes/No  
Neutral Citation: Yes/No



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M.NIRMAL KUMAR, J.

cse

To

The Additional District and Sessions Judge,  
at Namakkal

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