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CRL RC No.1794 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-11-2025

CORAM

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRL RC No.1794 of 2025

and

CRL MP No. 17830 of 2025

M.Nirmala
W/o. S.Magha,
No.16/3, Muthana Nagar,
Tollgate, Vellore.

..Petitioner(s)

Vs

T.K.T.G.Srinivasan,
S/o. Ganesa Mudaliar,
No.1/1A, Thulasinga Pillai Street,
Sankaranpalayam,
Vellore.

..Respondent(s)

PRAYER

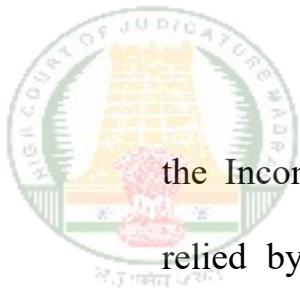
Criminal Revision Case filed under Sec.401 r/w 405 of B.N.S.S, praying to set aside the order of the Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Vellore, dated 20.08.2025 passed in C.M.P.No.818 of 2025 in C.A.No.85 of 2021.

For Petitioner(s): Mr. G.Gnanasundaram

For Respondent(s): Mr.K.Srinivasan
for Mr.N.Sivaraj

ORDER

Before the first appellate court, the petitioner/appellant had filed a petition in C.M.P.No.818 of 2025 under Sec.391 of Cr.P.C. to lead additional evidence pertaining to the petition mentioned documents and also to examine



the Income Tax Officer, Vellore pertaining to Ex.P12 (Income Tax Returns relied by the respondent/complainant for the financial year 2012-2013 and consequent financial years). The said petition was contested by the respondent/complainant. On hearing both side submissions, the first appellate court has held that an application to receive additional evidence at the appeal stage would be heard along with the main appeal, on the other hand, the petitioner/appellant submitted the arguments only to receive additional documents, which are eight documents relied on to the year between 2011 and 2014 except the document No.8. The complaint was lodged by the respondent/complainant in the year 2013, but only in the year 2023, at the time of filing the appeal, he wanted to produce those documents as additional evidence even though it was available in his hand much earlier even at the time of filing the complaint. The petitioner/appellant is having knowledge of those documents, but he failed to produce the same before the trial court, however he raised the defence with regard to those documents, which was also dismissed by the trial judge. Therefore, at the appeal stage, he wanted to produce those documents as such was unnecessary one. Accordingly, it was dismissed. Aggrieved over the said findings, the petitioner/appellant had preferred this Criminal Revision Case.

2.The learned counsel for petitioner/appellant prayed to set aside the findings of first appellate court and prayed to give opportunity to adduce those documents by raising the following grounds :-



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(a) The lower appellate court failed to see that Sec.391 Cr.P.C. empowers the appellate court to permit additional evidence in the interest of justice and the dismissal of an earlier petition under Sec.311 Cr.P.C. cannot operate as a bar for a subsequent petition filed under Sec.391 Cr.P.C. since both provisions operate in different spheres.

(b) The lower appellate court erred in holding that the documents produced by the petitioner are between year 2011 and 2014, which the petitioner could have been filed earlier without advertng to the established legal position that the test under Sec.391 is not whether documents were earlier available, but whether they are necessary for a just decision.

(c)The lower appellate court failed to see that the respondent/complainant had deliberately suppressed his legal notice dated 19.07.2011 (Ex.D4 in cross), which contradicts his complaint and makes the alleged loan on 09.05.2011 improbable. This crucial contradiction could only be brought out by leading additional evidence. The trial court's refusal to allow production of such documents causes grave miscarriage of justice.

(d) The lower appellate court erred in holding that the documents came into existence prior to the year 2014 and therefore, it could have been filed earlier ignoring the fact that the



respondent/complainant himself filed a belated document (Ex.P12 – IT Returns in the year 2021). When the respondent/complainant himself was allowed to rely on belated documents, the petitioner should also have been given an equal opportunity.

(e) The lower appellate court failed to apply the settled principle that procedural technicalities must yield to the cause of substantive justice particularly when an opportunity to rebut the statutory presumption under Sec.138 of Negotiable Instruments Act is sought for, particularly when the petitioner faces a potential conviction.

(f) The lower appellate court failed to see that the complainant suffers no prejudice if the additional evidence is admitted, since it is always open to him to cross-examine the witnesses and/or rebut the documents. On the contrary, the petitioner is likely to suffer an irreparable prejudice if denied an opportunity to place a vital piece of evidence.

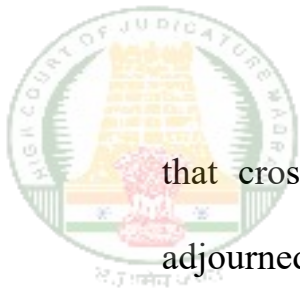
3.The learned counsel for respondent appeared and submitted that in order to drag on the proceedings, the petitioner/appellant came forward with the said petition before the first appellate court. He would submit that though those documents were in the hands of petitioner/appellant much earlier, he has not produced the same before the trial court. However, at the appeal stage, he has



taken steps to adduce those documents as evidence and the same was rightly dismissed by the first appellate judge, which requires no interference. He would submit that only to fill up the lacuna, the petitioner/appellant came forward with the said petition, which is not permissible under law.

4. Heard and considered rival submissions made on either side and perused the materials available on record.

5. Admittedly, as on date, the petitioner/appellant has challenged the findings of the trial judge before the first appellate court. Pending appeal, he wanted to produce eight number of documents as evidence. But, on perusal of findings of trial judge, it is seen that the petitioner/appellant had adduced his evidence. Apart from that, there is other litigation pending between the parties and when the trial started much earlier in the year 2012, even before the trial court, the petitioner/appellant wanted to produce eight documents, but all the defense raised by the petitioner/appellant as such was dismissed by the trial judge. Thereafter, the trial judge convicted the accused. Now, pending appeal, he wanted to produce the documents, which are all pertaining to the year between 2011 and 2014. In spite of income tax returns filed by the respondent/complainant, he has not examined the Income Tax Officer. Therefore, the petitioner/appellant wanted to examine the Income Tax Officer and lead the additional evidence, however, the trial judge had rightly observed



that cross-examination was conducted in the year 2013 and the case was adjourned to 22.04.2021 and again the witness was recalled. Thus, the trial court has given sufficient opportunity. Accordingly, the respondent/complainant was fully cross-examined and nearly 8 years was taken to complete the proceedings. During those period also, the petitioner/appellant had possessed those documents, but he has not produced, which shows that to fill up the lacuna, he wanted to produce those documents. Therefore, the first appellate judge has rightly dismissed the petition, which requires no interference. Accordingly, this Criminal Revision Case is dismissed. Without influence to the order of this court, the first appellate judge is directed to consider the appeal and dispose of the same. Further, the petitioner/appellant wanted to examine the Income Tax Officer as such is also unwanted one. Consequently, connected Criminal Miscellaneous Petition is closed.

13-11-2025

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

RPP

To

The Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Vellore.



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T.V.THAMILSELVI J.

RPP

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