

V. Srinivasan Vs. A. Ravikumar

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Court : Chennai

Decided On : Jul-15-2016

Judge : G. Chockalingam

Appeal No. : Crl.R.C.No. 684 of 2016 & Crl.MP.No. 4877 of 2016

Appellant : V. Srinivasan

Respondent : A. Ravikumar

Judgement :

(Prayer: Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C. against the order dated 17.03.2016 made in CA.No.25 of 2014 on the file of the Additional District and Sessions Judge, Hosur confirming the order dated 30.04.2014 made in STC.No.118 of 2013 on the file of the Judicial Magistrate (Fast Track Court), Hosur.)

1. The criminal revision petition is directed against the order passed by the learned Additional District and Sessions Judge, Hosur in CA.No.25 of 2014 dated 17.03.2016 confirming the sentence dated 30.04.2014 made in STC.No.118 of 2013 on the file of the Judicial Magistrate (Fast Track Court), Hosur.

2. The facts relating to the criminal revision is briefly as follows :-

The respondent complainant preferred a private complaint under Section 138 of Negotiable instruments Act for the cheque issued by the revision petitioner in

favour of the respondent for Rs.2,55,000/- on 12.02.2013, when the cheque was presented for collection on 06.03.2013, the same was returned by the Banker on the same day with an endorsement account closed. The complainant immediately issued notice dated 18.03.2013 to the accused. The accused after receipt of the notice did not replied for the said notice and not paid the cheque amount. Therefore, the petitioner presented the private complaint before the Judicial Magistrate, FTC, Hosur. The learned trial judge after perusing the evidence adduced on both sides and entire documents awarded punishment of six months simple imprisonment and directed to pay a sum of Rs.2,55,000/- towards compensation. Against the said order, the accused preferred criminal appeal before the learned Additional District and Sessions Judge, Hosur in CrI.A.No.25 of 2014, the appellate court after analysing the evidence of both sides confirmed the sentence and compensation awarded by the trial Court in STC.No.118 of 2013 dated 30.04.2014. Aggrieved over the said order, the revision petition is filed by the petitioner/accused.

3. The learned counsel for the petitioner mainly contended that the trial Court failed to take note of Section 87 of the Negotiable Instruments Act, even though the earlier loan amount was repaid in the year 2010, the complainant has not returned the cheques to the petitioner and foisted the present case against the petitioner/accused. The complainant was not able to establish for what purpose the cheque was issued by the accused and the notice issued by the complainant was also not proved. The appellate Court ought to have disbelieved the evidence of the complainant and dismissed the appeal. Hence, the learned counsel prayed to allow the revision petition and to set aside the judgments of the Courts below.

4. The learned counsel for the respondent mainly contended that both the Courts below after analysing the entire facts and evidences and documents placed before the trial Court came to the correct conclusion and found guilty and there is no illegality or infirmity in the judgments of the courts below. Hence, the learned counsel prays to confirm the order of the courts below and to dismiss the revision petition.

5. Heard the rival submissions made on both sides and perused the records.

6. The main contention of the revision petitioner is that there is material alteration in the Ex.P1-Cheque hence it has to be disbelieved. The cheque was issued only at the time of receiving earlier loan, which was repaid and the cheque was not returned to the accused and the present case was foisted on the accused with that cheque. On perusal of Ex.P1-Cheque, both the Courts below after analysing the evidence came to the conclusion that there is no material alteration in the Ex.P1-Cheque and the complainant has clearly proved his case.

7. The learned counsel for the respondent contended that legal notice was issued to the accused to pay the amount which was received, even after receiving the notice the accused has not chosen reply or repay the amount. Hence, the arguments of the revision petitioner cannot be accepted.

8. This Court finds, there is no illegality or infirmity in the above evidence of the Courts below, hence, there is no material alteration found in the cheque issued by the accused to the complainant.

9. It is admitted by both sides, pending revision before this Court that the matter was amicably settled between the parties on 23.09.2015 which reads as follows :

Both parties present. Both counsels present. Settled for Rs.2,55,000/- and Rs.20,000/- paid by the appellant to the respondent. Post the matter for arguments

10. During the pendency of the criminal revision, it was admitted by the revision petitioner and agreed to pay a sum of Rs.2,55,000/- cheque amount and paid Rs.20,000/- to the respondent/complainant.

11. In view of the above stated facts, it is clearly proved that the revision petitioner has borrowed a sum of Rs.2,55,000/- for which Ex.P1-Cheque was issued, when the cheque was presented for collection, it was returned with an endorsement account closed and the offence made out against the accused/revision petitioner under Section 138 of the Negotiable Instruments Act is clearly proved. With regard to the sentence, the trial Court awarded six months simple imprisonment and Rs.2,55,000/- towards compensation, the same is no way deemed to be

excessive. This court finds no illegality or infirmity in the judgment passed by the Courts below and the same does not warrant any interference by this court.

12. In the result, the criminal revision petition stands dismissed. Consequently, connected miscellaneous petition is closed. The trial Court is directed to take necessary steps to execute the conviction warrant on the accused.

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