

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12-08-2015

Coram

THE HON'BLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case Nos.1002 and 1003 of 2014

J.Chandran

.. Petitioner
in both revisions

Versus
N.Sankara Narayanan ... Respondent
in both revisions

Criminal Revision Cases filed under Section 397 read with 401 of Cr.P.C. against the judgments dated 10.07.2014 made in C.A.Nos.76 of 2011 and 93 of 2012 on the file of the learned IV Additional District and Sessions Judge, Ponneri, confirming the judgments of conviction and sentence imposed in S.T.C.Nos.234 of 2011 and 1631 of 2011 passed by the learned Judicial Magistrate, Thiruvottiyur and Judicial Magistrate No.II, Ponneri respectively, dated 02.12.2011 and 15.10.2012 respectively.

For Petitioner : Ms.Gajalakshmi Rajendran
in both revisions

For Respondent : Mr.S.Gurumoorthy
in both revisions

COMMON ORDER

The case of the respondent/complainant is that the petitioner/accused was doing a real estate business and for purchase of two plots from the accused, the complainant made monthly payments and had paid the full value of the plot of Rs.50,000/- in each case. In spite of the same, the accused did not allot the plots in favour of the complainant. When the complainant demanded for allotment of plots, the accused is alleged to have executed two cheques dated 21.12.2010 and two cheques dated 15.12.2010 respectively for Rs.25,000/- each. When the complainant presented the cheques for encashment, it returned due to insufficient funds. The complainant issued legal notices, for which, the accused did not respond and hence, the complaints. After trial, the petitioner/accused was convicted in S.T.C.Nos.234 and 1631 of 2011, by the learned Judicial Magistrate, Thiruvottiyur and Judicial Magistrate No.II, Ponneri respectively, by judgments dated 02.12.2011 and 15.10.2012 respectively, for an offence under Section 138 of the Negotiable

Instruments Act and sentenced the petitioner to undergo three months and two months simple imprisonment in each case respectively and ordered to pay compensation of Rs.50,000/- to the complainant in each case. Challenging the same, the petitioner/accused has preferred Criminal Appeal Nos. 76 of 2011 and 93 of 2012 before the learned IV Additional District and Sessions Judge, Ponneri, which were dismissed on 10.07.2014, thereby, confirming the judgments of conviction and sentence imposed by the Trial Court. As against the same, the accused has filed the present Criminal Revision Cases.

2. Today, when the matters are taken up, Ms. Gajalakshmi Rajendran, learned counsel appearing for the petitioner/accused would submit that she is not arguing the matters on merit but she is confining her argument only on the question of sentence imposed on the petitioner/accused by the Appellate Court. He would further submit that the accused is willing for settlement by way of payment of cheques amount within a period of one month from the date of receipt of a copy of this order.

3. Mr. S. Gurumoorthy, learned counsel appearing for the respondent would submit that a sum of Rs.50,000/- in each case, i.e., totally Rs.1,00,000/- is liable to be paid by the accused to the complainant.

4. Heard both sides. By consent, both Criminal Revision Cases are taken up for final disposal.

5. Taking into consideration of the fact that the learned counsel for the petitioner/accused is not arguing the matter on merits but she is confining her argument only on the question of sentence imposed on the accused by the Appellate Court, apart from that the petitioner/accused is willing to pay back the cheques amount, for which course, the complainant has no objection and he is agreeable for the same, I am of the view that some leniency can be shown to the petitioner/accused in reducing the sentence. Accordingly, while confirming the conviction imposed by the Appellate Court, the sentence alone in both cases is modified to the effect directing the petitioner/accused to deposit the cheques amount totalling to Rs.1,00,000/- (Rupees One Lakh only) in both cases as compensation, instead of the imprisonment and compensation awarded by the Appellate Court. Out of the said amount, a sum of Rs.50,000/- (Rupees Fifty Thousand only) shall be deposited by the petitioner/accused to the credit of S.T.C.No.234 of 2011 on the file of the Judicial Magistrate, Thiruvottiyur, and another sum of Rs.50,000/- (Rupees Fifty Thousand only) shall be deposited to the credit of S.T.C.No. 1631 of 2011, on the file of the learned Judicial Magistrate No.II, Ponneri, within a period of four weeks from the date of receipt of a copy of this order, failing which, the judgments passed by the Appellate Court shall stand revived and the respondent/complainant is at liberty.

to approach the respective Trial Court, which shall take steps to secure the accused to undergo the remaining period of sentence in each case. On such deposit being made, the complainant is permitted to withdraw the same from the respective Trial Court by filing appropriate applications before the respective Trial Court.

6. With the above modification in sentence, these Criminal Revision Cases are partly allowed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

- 1.The IV Additional District and Sessions Judge,
Ponneri.
- 2.The Judicial Magistrate,
Thiruvottiyur.
- 3.The Judicial Magistrate No.II
Ponneri.

Crl.R.C. Nos.1002 and 1003 of 2014

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