

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.1223 of 2014
and
M.P.No.1 of 2014

Palanisamy

...Petitioner

Versus

P.Manickkam

...Respondent

Criminal Revision case filed under Sections 397 and 401 of Cr.P.C. against the order passed by the learned Principal District and Sessions Judge, Salem, in CMP.4072 of 2014 in C.A.No.152/2014 dated 07.11.2014.

For Petitioner : Mr.R.Nalliyappan

For Respondent : Ms.Zeenath Begum

ORDER

The Criminal Revision Case is directed against the order passed by the learned Principal District and Sessions Judge, Salem, in CMP.4072 of 2014 in C.C.No.152/2014 dated 07.11.2014.

2. The petitioner herein is the accused and the respondent is the complainant in C.C.No.152 of 2014 on the file of the learned Judicial Magistrate No.I, Salem.

3. The case of the complainant is as follows:

The accused has availed a loan of Rs.1,00,000/- from the complainant and in order to discharge the same, the accused issued a cheque dated 11.04.2009. When the cheque was presented for payment, it was returned dishonoured with an endorsement that ''Funds insufficient'' on 15.04.2009. Thereafter, the complainant issued a statutory notice dated 22.04.2009 to the accused. Since the same was also returned, the complainant issued another legal notice dated 16.05.2009. Thereafter also, since the accused has failed to repay the loan amount, the complainant has preferred a private complaint before the learned

Judicial Magistrate No.I, Salem. After following the procedure, the same was taken on file as C.C.No.152 of 2009 by the learned Judicial Magistrate No.I, Salem. After full fledged trial, the Magistrate convicted the accused under Section 138 of the Negotiable Instruments Act and sentenced him to undergo Simple Imprisonment for one year and to pay a compensation of Rs.1,50,000/- to the complainant. The said sentence was suspended by the learned Principal District and Sessions Judge, Salem in CMP.No.4072 of 2014 by an order dated 07.11.2014 directing the petitioner to deposit Rs.75,000/- being the 50% of the compensation amount to the credit of C.C.No.152 of 2008 on the file of the learned Judicial Magistrate No.I, Salem, within a period of four weeks. Aggrieved over the same, the petitioner is before this Court with this revision.

4. Learned Counsel for the Revision Petitioner would contend that the loan amount is only Rs.1,00,000/-, but while suspending the sentence, the Principal District and Sessions Judge, Salem has directed the petitioner to deposit Rs.75,000/- being the 50% of compensation awarded by the trial court. Hence, the same has to be set aside.

5. Learned Counsel for the respondent would contend that the trial court has passed the order after taking into consideration of the facts and circumstances and directed to pay a compensation of Rs.1,50,000/- to the complainant and while suspending the sentence, the learned Principal District and Sessions Judge, Salem directed to deposit 50% of the compensation amount which is just and reasonable. Therefore, the present revision has to be dismissed.

6. Heard both sides.

7. Considering the facts and circumstances of the case and also the attendant circumstances, this Court is of the view that the learned Principal District and Sessions Judge, Salem, instead of directing to deposit Rs.75,000/- as compensation for suspending the sentence imposed on the petitioner by the trial court, could have directed to deposit Rs.50,000/- as compensation, being half of the cheque amount.

8. Accordingly, the accused/revision petitioner is directed to deposit Rs.50,000/- towards compensation which is half of the cheque amount for suspending the sentence towards compensation to the complainant, instead, of Rs.75,000/- as directed by the learned Principal District and Sessions Judge, Salem, within a period of four weeks from the date of receipt of a copy of this Order, failing which the order shall stand cancelled.

9. With the above modification, the Criminal Revision Case is partly allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

tsi

To

1. The Judicial Magistrate No.I,
Salem.
2. The Principal District and Sessions Judge,
Salem.
3. The Public Prosecutor,
Madras.

1 CC to Mr.T.Murugamanickam, Advocate SR.No. 56110

1 CC to Mr.R.Nalliyappan, Advocate SR.No. 56219

Cr1 RC No.1223 of 2014

KM (CO)
PSI (02.11.2015)

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