

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.6.2015

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

Crl.R.C.No.1031 of 2009

R.Murugan

...Petitioner

versus

S.Baggiam

...Respondent

Revision filed against the judgment in C.A.No.58 of 2009 on the file of Additional District and Sessions Judge, Salem, (Fast Track Court No.1, Salem) dated 10.9.2009, confirming the conviction and sentence passed by the Judicial Magistrate No.1, Salem, by judgment dated 15.6.2009 in C.C.No.190 of 2008 for offence under Section 138 Negotiable Instruments Act.

For petitioner : Mr.B.Vasudevan

For respondent : Mr.P.Jagadeesan

O R D E R

The petitioner was tried in C.C.No.190 of 2008, on the file of the Judicial Magistrate No.1, Salem, and he was convicted for offence under section 138 Negotiable Instruments Act and sentenced to undergo simple imprisonment for one year and to pay compensation of Rs.1,00,000/-.

2. Aggrieved by the said order, he preferred an appeal in C.A.No.58 of 2009, before the Additional District Sessions Judge, Salem who upheld the conviction and sentence imposed on the petitioner and dismissed the appeal. Challenging the same, the present revision has been filed.

3. Inasmuch as two courts have already gone into the facts and given concurrent findings holding the accused guilty, it may not be necessary for me to go into the facts and circumstances of the case again. Moreover, this court sitting in revision is called upon to satisfy itself with the correctness, legality and propriety of the orders passed by the courts below, and not to re-appraise the

evidence. The case of the prosecution in brief is as follows:-

"a) The petitioner borrowed a sum of Rs.1,00,000/- from the respondent and agreed to repay the same with interest. He has given a cheque to the respondent assuring that the instrument would be honoured. However, when the respondent presented the cheque for encashment, it was returned due to want of sufficient fund. Therefore, the respondent sent a notice, calling upon the petitioner to repay the amount with interest. However, the petitioner neither replied to the said notice nor repaid the loan amount. Therefore, the respondent laid a complaint against the petitioner.

b) A case was registered against the petitioner and tried in C.C.No.190 of 2008 on the file of Judicial Magistrate No.1, Salem and the petitioner were convicted as aforesaid."

4. After making some elaborate arguments, the learned counsel for the petitioner confined his arguments with regard to sentence alone. The learned counsel submitted that the petitioner is the sole breadwinner of the family. He is prepared to pay the entire cheque amount and some compensation amount as may be fixed by this Court.

5. The learned counsel for the respondent would submit that the petitioner may be directed to pay double the cheque amount to meet the ends of justice.

6. On going through the entire materials placed on record, this Court is of the view that while confirming the conviction, the petitioner could be directed to pay the cheque amount and compensation, in lieu of sentence of imprisonment. Accordingly, the petitioner is directed to pay a sum of Rs.1,75,000/- (Rupees One Lakh Seventy Five Thousand only) within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that in case the petitioner fails to make payment within the stipulated time as aforesaid, the lower Court may take steps to arrest the petitioner and make him undergo the remaining part of the sentence.

7. The revision is disposed of accordingly.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Additional District Sessions Judge,
Salem.

2.The Judicial Magistrate No.1,
Salem.

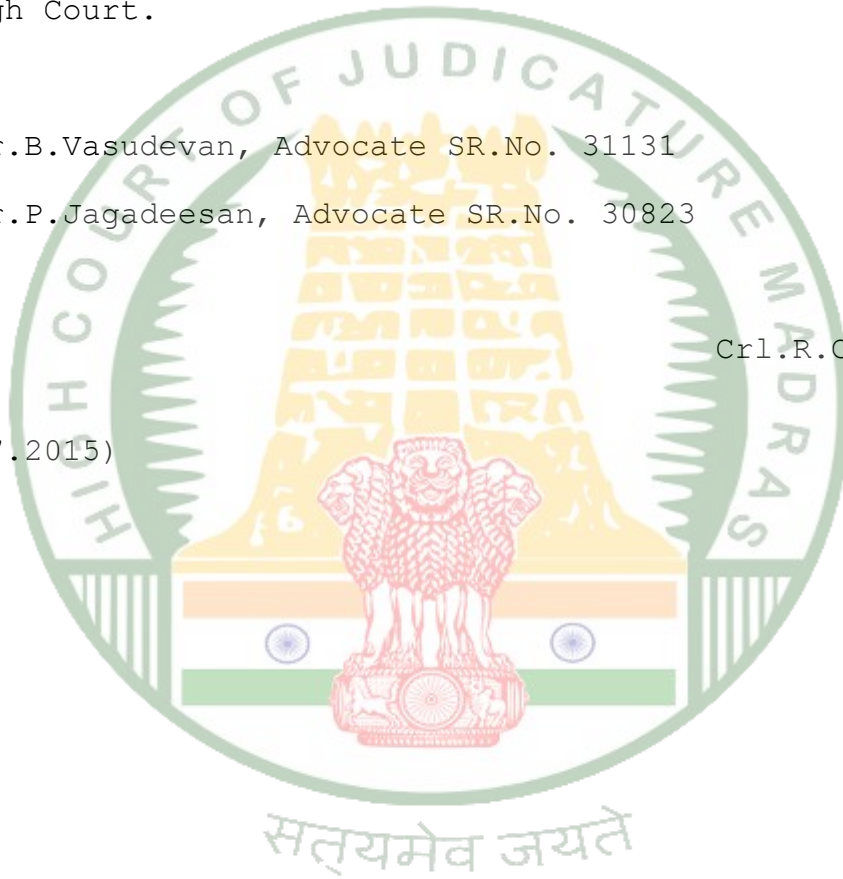
3.The Public Prosecutor,
Madras High Court.

1 CC to Mr.B.Vasudevan, Advocate SR.No. 31131

1 CC to Mr.P.Jagadeesan, Advocate SR.No. 30823

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CNR (CO)
PSI (03.07.2015)



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