

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Criminal R.C. Nos.220 and 314 of 2010
and
M.P.No.1 of 2010 in Crl.R.C.No.314 of 2010

R.Manikandan

...

Petitioner in the
both cases

vs.

K.Sengottaiyan

...

Respondent in the
both cases

Common Prayer: Criminal Revision Case No.220 of 2010 is filed under Sections 397 r/w 401 of the Code of Criminal Procedure praying to call for the records and set aside the conviction and sentence imposed by the Additional District and Sessions Judge, Fast Track Court, Namakkal, by Judgment dated 11.11.2009 in C.A.No.33 of 2006 by confirming the Judgment passed by the Judicial Magistrate, Rasipuram in C.C.No.264 of 2004 by Judgment dated 15.5.2006.

Criminal Revision Case No.314 of 2010 is filed under Sections 397 r/w 401 of the Code of Criminal Procedure praying to call for the records and set aside the order of compensation passed in Crl.R.C.No.3/2008 dated 11.11.2009 by the Additional District and Sessions Judge, Namakkal (Fast track Court) filed against the Judgment in C.C.No.264 of 2004 by the Judicial Magistrate, Rasipuram by Judgment dated 15.5.2006.

For Petitioner : Mr.B.Vasudevan

For Respondent : Mr.T.R.Daveson

COMMON ORDER

The petitioner is the sole accused in C.C.No.264 of 2004 on the file of the Judicial Magistrate, Rasipuram on a private complaint filed by the respondent. By the judgment of the Judicial Magistrate,

Rasipuram, in C.C.No.264 of 2004 dated 15.5.2006, the petitioner was convicted under section 138 of Negotiable Instruments Act and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.5,000/-, in default to pay the fine, three months simple imprisonment. Against this judgment, appeal filed in Criminal Appeal No.33 of 2006 was dismissed by the learned Additional District and Sessions Judge, Fast Track Court, Namakkal, confirming the Judgment of the trial Court.

2. Heard the learned counsel appearing for the petitioner as well as respondent and perused the records.

3. Now, the learned counsel appearing appearing for the petitioner/accused prayed this Court to show leniency in the matter of sentence of imprisonment alone by setting aside the period of sentence imposed by the Courts below into one of payment of compensation and submitted that the petitioner is willing to pay the entire compensation amount within a period of six months.

4. Learned counsel appearing for the respondent would submit that though the payment of compensation is beneficial to the Society, payment of the cheque amount cannot be accepted but if the payment of compensation is double that of the cheque amount, that would be acceptable.

5. Considering the facts and circumstances of the case and the submissions made, this Court feels that since the Criminal Revision Cases have been pending since 2010, if the petitioner is permitted to pay compensation, some amount will be credited to the society. Since the cheque amount is Rs.11,31,373/-, this Court deems it fit that awarding a sum of Rs.20,00,000/- (Rupees twenty laksh only), in toto, would meet the ends of justice.

6. Accordingly, the conviction ordered by both the Court below is confirmed and the sentence awarded to undergo rigorous imprisonment for one year is modified into one of payment of compensation of Rs.20,00,000/- (Rupees twenty laksh only). Accordingly, the petitioner/accused is directed to pay a sum of Rs.20,00,000/- (Rupees twenty laksh only) to the respondent society within a period of three months from the date of receipt of a copy of this order. In the event of failure to pay the amount within the time stipulated by this Court, the petitioner/accused has to undergo rigorous imprisonment for one year as ordered by the trial Court and confirmed by the appellate Court. In such event, the trial Court shall take appropriate steps as are necessary to secure the presence of the petitioner/accused to undergo the sentence of rigorous imprisonment for one year imposed by the Courts below.

7. With the above modification, the Criminal Revision Cases are partly allowed. The connected Miscellaneous Petition is closed.

It is made clear that this order will not bar any proceedings which has already been initiated between the parties.

Sd/-
Asst.Registrar (J)

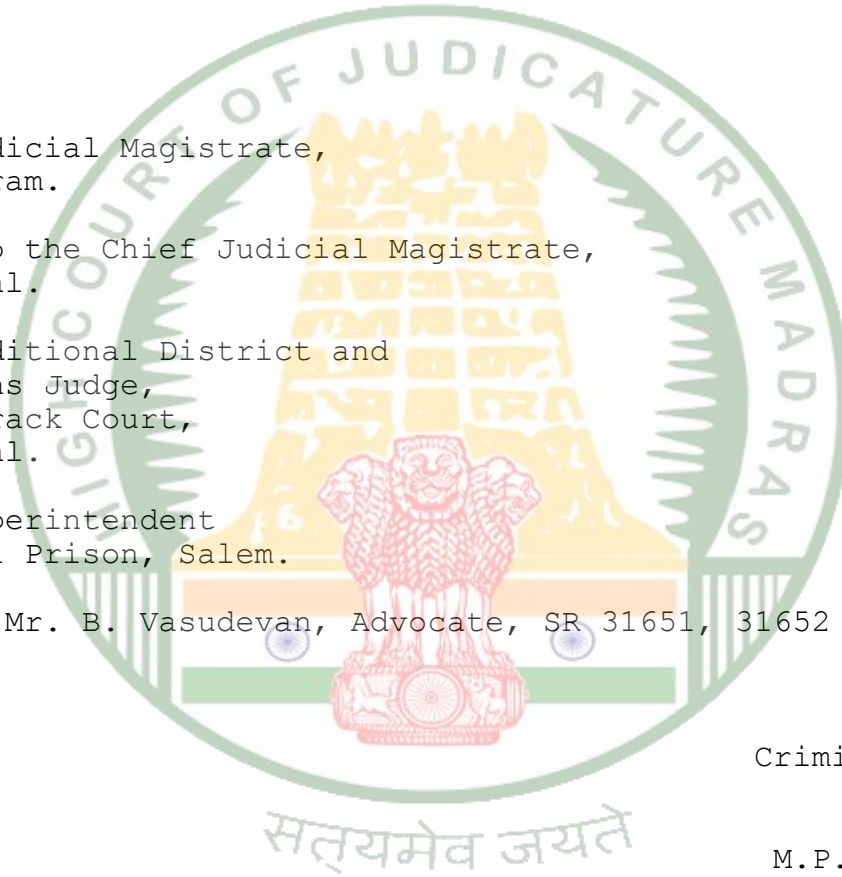
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Sub Asst. Registrar

asvm
To

1. The Judicial Magistrate,
Rasipuram.
2. Do thro the Chief Judicial Magistrate,
Namakkal.
3. The Additional District and
Sessions Judge,
Fast Track Court,
Namakkal.
4. The Superintendent
Central Prison, Salem.

+2 ccs to Mr. B. Vasudevan, Advocate, SR 31651, 31652
(asvm)



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