

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-06-2015

Coram :

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 1372 of 2008

M. Kandasamy

.. Petitioner/Accused

Versus

V. Viswanathan

.. Respondent/Complainant

Criminal Revision Case filed under Section 397 and 401 of Criminal Procedure Code against the Judgment dated 14.05.2008 passed in Criminal Appeal No. 9 of 2007 on the file of I Additional District and Sessions Judge, Special Judge for E.C. Act case, Salem (F.A.C.) confirming the judgment dated 28.12.2006 made in C.C. No. 633 of 2003 on the file of Judicial Magistrate No.3, Salem District.

For Petitioner : Mr. B. Vasudevan
For Respondent : Mr. J. Ramakrishnan

ORDER

The respondent herein has filed C.C. No. 633 of 2003 against the revision petitioner herein under Section 138 of the Negotiable Instruments Act contending that the revision petitioner borrowed a sum of Rs.1 lakh from him on 02.12.1997 and agreed to pay interest thereof. On the same date, the revision petitioner also executed a promisory note i.e., on 02.12.1997 marked as Ex.P5. The revision petitioner thereafter issued the cheque dated 11.08.2003, Ex.P1 to discharge his past liability to the respondent. The cheque was dishonoured on presentation for want of funds. The respondent therefore issued a legal notice on 19.08.2003 and it was received by the revision petitioner on 25.08.2003 but failed to pay the cheque amount. After trial in the Calander Case, the revision petitioner was convicted for the offence under Section 138 of The Negotiable Instruments Act and sentenced to undergo simple imprisonment for six months and also to pay Rs.1,00,000/- as compensation to the complainant/respondent herein. The appeal preferred in Criminal Appeal No. 9 of 2007 before the appellate Court was also dismissed on 14.05.2008 against which the present Criminal Revision Case is filed.

2. Heard the counsel for both sides. The learned counsel appearing for the revision petitioner did not argue the case on merits but confined his argument only in respect of reduction of sentence. The learned counsel for the petitioner, on instructions, submitted that the revision petitioner is prepared to pay the cheque amount, if time is granted and on such payment, the conviction and sentence imposed on him by the courts below be set aside. The learned counsel for the respondent has no serious objection

3. Having regard to the above submission of the counsel for both sides, this Court, direct the revision petitioner to pay the cheque amount of Rs.1,00,000/- to the respondent within a period of three months from the date of receipt of a copy of this order. If the revision petitioner fail to pay the amount within the time stipulated above, the order passed in this Criminal Revision Case will not enure to his benefit and in such case, the trial court shall take necessary steps as are necessary to secure the presence of the revision petitioner to undergo the remaining period of sentence.

4. In the result, the Criminal Revision Case is partly allowed by upholding the judgment of conviction imposed by the courts below under Section 138 of The Negotiable Instruments Act against the petitioner and the sentence alone is modified subject to the petitioner paying the cheque amount within the time stipulated above with the default clause.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The I Additional District and Sessions Judge
Special Judge for E.C. Act case
Salem.
 2. -do- Through The Principal Sessions Judge, Salem.
 3. The Judicial Magistrate No.3
Salem District.
 4. -do- Through The Chief Judicial Magistrate, Salem.
- + 1 cc to Mr.B. Vasudevan, Advocate Sr.27665
+ 1 cc to Mr.J. Ramakrishnan, Advocate Sr.27967
- Copy to: The Section Officer,
Criminal Section, High Court, Madras.

Cr1.R.C No. 1372 of 2008

PUR(CO)
Eu 24.07.15