

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2015

CORAM:

THE HON'BLE MR.JUSTICE B. RAJENDRAN

CRL.R.C.No.348 of 2010

R.Nallaiyan, 61 years
S/o.Ramsamy Gounder
Road Inspector
Traveller's Bungalow
Highway's Department
Edapaddi Post
Salem District.

...Petitioner

Versus

P.Periasamy

.. Respondent

Criminal Revision Case filed under Sections 397 (2) and 401 of the Criminal Procedure Code, against the judgment of conviction and sentence dated 05.01.2010 passed in Crl.A. No. 37 of 2006 on the file of the Additional District Sessions Judge, Fast Track Court, Namakkal, confirming the judgment of conviction and sentence dated 14.07.2006 passed in C.C. No. 207 of 2003 on the file of the learned Judicial Magistrate, Rasipuram.

For Petitioner : Mr.I.Mathivanan

For Respondent : No Appearance

O R D E R

The petitioner/accused stood charged for the offence punishable under Section 138 of Negotiable Instruments Act alleging that he has borrowed a sum of Rs.2,97,000/- and to discharge the debt, he has issued a cheque. When the cheque was presented for collection, it returned for insufficient funds. The complainant issued a statutory notice, for which, the accused has given a reply with false allegations. Since, the accused has not come forward to pay the amount, a complaint was lodged. After trial, the petitioner was convicted by the learned Judicial Magistrate, Rasipuram, in C.C.No.207 of 2003 for the aforesaid offence and sentenced him to undergo simple imprisonment for one year and to pay a fine of Rs.5,000/-, in default, to undergo simple imprisonment for a period of three months. The judgment of conviction and sentence imposed on the petitioner was confirmed by the learned Additional District Sessions Judge, Fast Track Court, Namakkal, on 05.01.2010 in Crl.A. No. 37 of 2006. Aggrieved against the same, the petitioner has come forward with the present Criminal Revision Case.

2. Mr.I.Mathivanan, learned counsel for the petitioner submits that though, he does not admit the liability, he is not arguing the case on merits but confined his argument only on sentence, since, he does not want to drag on the proceedings. He would further add that

the petitioner is the sole breadwinner of the family and he has to take care of his aged parents and his family and therefore, he is willing to deposit the cheque amount, but, due to the fact that he is facing some financial crunch in his business, he needs some time and hence, he prayed for showing leniency in reduction of sentence.

3. Today, when the matter is taken up, there is no representation for the respondent/complainant. The Hon'ble Apex Court in the decision reported in (2013)3 Supreme Court Cases 721, K.S.Panduranga vs. State of Karnataka, has culled out certain principles and has ultimately held that no doubt, the Court can decide the matter even in the absence of parties, but, only criteria is that the case should be decided on merits. In the light of the decision cited supra, as the case is pending from 2010, the main Criminal Revision Case itself is taken up and disposed of on merits, after hearing the learned counsel appearing for the petitioner and after perusing the materials available on record.

4. Taking into consideration of the fact that the learned counsel appearing for the petitioner is not arguing the matter on merits but he is confining his argument only on the question of sentence imposed on the petitioner by the Appellate Court and prayed for showing leniency in reduction of sentence, I am of the view that some leniency can be shown to the petitioner/accused in reducing the sentence, by modifying the sentence imposed by the Appellate Court into one of the payment of the entire cheque amount of Rs.2,97,000/- + some additional amount totalling to Rs.3,00,000/- (Rupees Three Lakhs only) as compensation, which shall be deposited to the credit of C.C. No.207 of 2003 before the Judicial Magistrate, Rasipuram, within a period of three months from the date of receipt of a copy of this order, failing which, the judgment passed by the Appellate Court shall stand revived and the respondent/complainant is at liberty to approach the Trial Court, which shall take steps to secure the accused to undergo the remaining period of sentence. On such deposit being made, the complainant is permitted to withdraw the same from the Trial Court by filing an appropriate application before the Trial Court.

5. With the above modification in sentence, this Criminal Revision Case is partly allowed.

paa

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Sd/-

Asst.Registrar (CS II)

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Sub Asst. Registrar

To

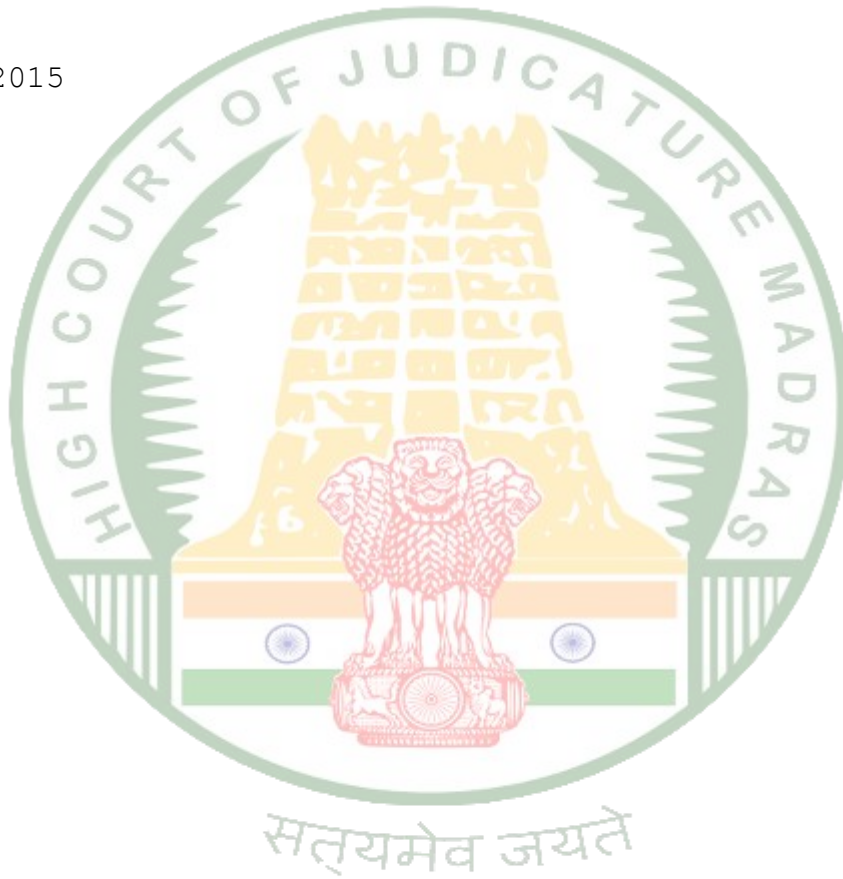
1. The Additional District
Sessions Judge,
Fast Track Court, Namakkal.

2. The Judicial Magistrate,
Rasipuram.

+1 C.C.to MR.P.MATHIVANAN, Advocate in Sr.No.49323

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VSN(CO)
sd : 05/10/2015



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