



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2015

CORAM:

THE HON'BLE MR.JUSTICE B. RAJENDRAN

CRL. R.C. No. 70 of 2010

P.S.Dhanasekaran
Chandra Medicals
28, New Hospital Road
Gopichettypalayam
Erode District-638 452.

.. Petitioner

Versus

1.K.S.Sridharan

2.State rep. by
Public Prosecutor
Erode.

.. Respondents

Criminal Revision Case filed under Section 397 read with 401 of the Criminal Procedure Code, against the judgment of conviction and sentence passed in Crl.A. No. 87 of 2008 on the file of the Additional District & Sessions Judge, Fast Track Court No.II, Gopichettypalayam, dated 09.12.2009, confirming the judgment of conviction and sentence passed in C.C. No. 252 of 2005 on the file of the Judicial Magistrate, Sathyamangalam, dated 11.02.2008.

For Petitioner : Mr.M.Narayanasamy

For Respondents : Mr.V.Arul
Government Advocate
(Criminal Side) for R.2

O R D E R

The petitioner/accused stood charged for the offence punishable under Section 138 of Negotiable Instruments Act alleging that on 20.04.2005, the accused borrowed a sum of Rs.75,000/- as handloan from the complainant and promised to repay it within three months. To discharge the debt, accused gave a cheque for Rs.75,000/- on 13.05.2005. When the complainant presented the cheque for collection, it returned with an endorsement "Funds Insufficient". The complainant has issued a legal notice. After receiving the notice, the accused has given a reply with false allegations, but, he has not chosen to come forward to pay the amount and hence, the complaint. After trial, the accused was convicted by the learned Judicial Magistrate, Sathyamangalam, in C.C.No.252 of 2005 for the offence under Section 138 of Negotiable Instruments Act and sentenced him to undergo simple imprisonment for six months and to pay a fine of Rs.2000/-, in default, to undergo simple imprisonment for a period of two months. The judgment of conviction and sentence imposed on the petitioner was confirmed by the learned Additional District &



Sessions Judge, Gopichettipalayam, in CrI.A. No.87 of 2008, dated 09.12.2009. As against the same, the petitioner has come forward with the present Criminal Revision Case.

2.Mr.M.Narayanasamy, learned counsel appearing for the petitioner/ accused would submit that this Court while granting suspension on 24.02.2010 directed the petitioner to deposit a sum of Rs.10,000/- before the Trial Court and pursuant to which, he has deposited the said amount and therefore, he pleaded for showing leniency in reduction of sentence.

3. Mr.V.Arul, learned Government Advocate appearing for the second respondent would submit that the petitioner/accused has only deposited a sum of Rs.10,000/- before the Trial Court and he has not paid the full amount borrowed by him and the balance amount is yet to be paid by the accused.

4. Heard both sides and I have perused the materials on record. By consent, the main Criminal Revision Case itself is taken up for final disposal.

5. Taking into consideration of the fact that the cheque was issued on 13.05.2005 and pending the case, the accused has deposited a sum of Rs.10,000/- before the Trial Court, pursuant to the direction of this Court, while granting suspension on 24.02.2010, I am of the view that some leniency can be shown to the petitioner in reducing the sentence, however, on a stringent condition of depositing the entire cheque amount as compensation. Accordingly, while confirming the conviction imposed by the Appellate Court, the sentence alone is modified to the effect, the petitioner/accused is directed to pay the cheque amount of Rs.75,000/- as compensation, instead of the imprisonment awarded by the Appellate Court, out of which, since, it is represented that a sum of Rs.10,000/- has already been deposited before the Trial Court; that has to be deducted, then, it will come to Rs.65,000/-. The said amount of Rs.65,000/- (Rupees Sixty Five Thousand only) has to be deposited to the credit of C.C.No.252 of 2005 on the file of the Judicial Magistrate, Sathyamangalam, 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 first respondent/defacto complainant is at liberty to approach the Trial Court, which shall take steps to secure the accused to undergo the remaining period of sentence. The fine amount imposed by the Trial Court stands confirmed.

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

Sd/-
Assistant Registrar(CS II)

//True Copy//



WEB COPY

To

1.The Public Prosecutor
Erode.

2.The Additional District & Sessions Judge,
Fast Track Court No.II,
Gopichettypalayam.

3.The Judicial Magistrate,
Sathyamangalam.

4.The Public Prosecutor
High Court.

+ 1 cc to Mr.M. Naraayana Swamy, Advocate Sr.49088

Crl.R.C. No. 70 of 2010

VSN(CO)
Eu 05.10.15