

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.10.2015

Coram

The Honourable Mr.Justice B.RAJENDRAN

Cr1.R.C.No.633 of 2012

M.Nehru Vivekananthan

...Petitioner/Accused

Vs.

K.Sri Ramachandran

... Respondent/Complainant

Criminal Revision Cases filed under Sections 397 and 401 Cr.P.C., against the order dated 18.06.2012 made in C.A.No.44 of 2012 on the file of the Principal Sessions Judge, Erode District, Erode District confirming the judgment and conviction dated 27.01.2012 made in C.C.No.430 of 2006 on the file of II Additional District Munsif, Erode and to set aside the same.

For Petitioner : Mr.C.S.Saravanan

For Respondent : Mr.S.Meenakumari

ORDER

The petitioner is the accused and the respondent is the complainant. This Criminal Revision has been filed by the petitioner/accused against the order dated 18.06.2012 made in C.A.No.44 of 2012 on the file of the Principal Sessions Judge, Erode District, confirming the judgment and conviction dated 27.01.2012 made in C.C.No.430 of 2006 on the file of II Additional District Munsif, Erode.

2. The case of the complainant is that the accused borrowed a sum of Rs.50,000/- as hand loan on 02.06.2002. To discharge the above said debt, the accused issued a cheque for the said amount dated 14.06.2002. When the said cheque was presented for collection, the same was returned with an endorsement "Funds Insufficient". Therefore, a statutory notice dated 29.08.2002 was issued to the accused. Since no payment was made even thereafter, the complainant has filed the present complaint for the offences punishable under Section

138 of the Negotiable Instrument Act and the same was taken cognizance in C.C.No.430 of 2006, on the file of the learned II Additional District Munsif, Erode. Ultimately, after trial, the trial court convicted the accused for the offences punishable under Section 138 of the Negotiable Instrument Act and sentenced to undergo six months rigorous imprisonment and was directed to pay Rs.50,000/- as compensation. Aggrieved by the same, the accused has filed Crl.A. No.44 of 2012 before the learned Principal Sessions Judge, Erode, and the same was dismissed by confirming the judgment of the trial Court. Aggrieved by the order passed by the First Appellate Court, the petitioner has filed the present Criminal Revision Case.

3. Learned counsel appearing for the petitioner/accused has confined his argument only on the question of sentence imposed on the petitioner by the courts below. The learned counsel for the petitioner would contend that the cheque issued for some other purpose had been misused by the complainant. Further he has already deposited a sum of Rs.15,000/- and now the petitioner is willing to pay the entire cheque amount and, therefore, the learned counsel for the petitioner prayed for showing leniency against the petitioner.

4. Today when the matter is taken up for hearing, learned counsel on both sides submitted that they are willing to settle the matter.

5. I have perused the materials available on record.

6. The trial court convicted the petitioner/accused for the offences punishable under Section 138 of the Negotiable Instruments Act and sentenced to undergo six months rigorous imprisonment and was directed to pay Rs.50,000/- as compensation.

7. However, taking into consideration the submission made by the learned counsel for the petitioner and the fact that he has argued only on the question of sentence and coupled with the fact that both the parties are willing to settle the matter, I am of the view that instead of sending the petitioner to jail, in the interest of justice, he may be directed to pay some amount as compensation. Accordingly, while confirming the conviction imposed by the Courts below, the sentenced is modified to that of payment of compensation to the tune of Rs.50,000/- (Rupees Fifty Thousand only). The petitioner is directed to pay the amount of Rs.50,000/- including the amount already deposited before the Magistrate in C.C.No.430 of 2006, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that if the petitioner fails

to deposit in Court within the above stipulated period, he shall undergo the period of sentence as imposed by the Courts below and this order will not enure to the benefit of the accused.

8. With the above direction and modification, this Criminal Revision Case is partly allowed.

sd/
ASSISTANT REGISTRAR (CO)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

smi

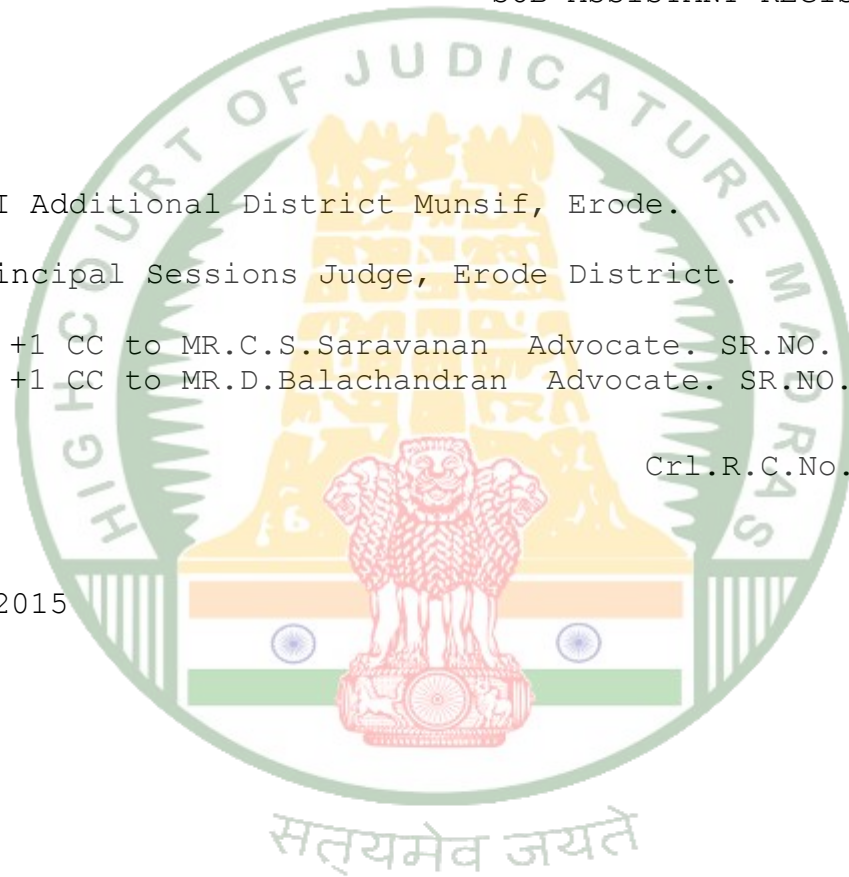
To

1. The II Additional District Munsif, Erode.
2. The Principal Sessions Judge, Erode District.

+1 CC to MR.C.S.Saravanan Advocate. SR.NO. 55229
+1 CC to MR.D.Balachandran Advocate. SR.NO. 54852

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CO-BVR
JD 05/11/2015



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