

THE HONOURABLE SRI JUSTICE RAJA ELANGO

CRIMINAL REVISION CASE No.2186 OF 2006

ORDER:

This Criminal Revision Case, under Sections 397 and 401 of the Code of Criminal Procedure, 1973, is filed by the petitioner/appellant/accused challenging the judgment, dated 12.07.2006, in Criminal Appeal No.166 of 2005 on the file of I Additional Sessions Judge, Chittoor, whereunder and whereby, the learned Sessions Judge dismissed the appeal confirming the conviction and sentence imposed against the petitioner in S.T.C.No.29 of 2005, dt.04.07.2005, on the file of Special Judicial Magistrate of First Class, Chittoor.

2. Respondent No.1 herein is the complainant and the petitioner herein is the accused. Respondent No.1 filed a private complaint against the petitioner before the Special Judicial Magistrate of First Class, Chittoor for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and the same was numbered as S.T.C.No.29 of 2005. The learned Magistrate found the accused guilty for the offence punishable under Section 138 of the Negotiable Instruments Act and accordingly, convicted and sentenced him to undergo rigorous imprisonment for a period of eight (08) months and to pay compensation of Rs.56,500/-, which is payable to the complainant within three (03) months. Challenging the said judgment, the petitioner filed Criminal Appeal before I Additional Sessions Judge, Chittoor. Aggrieved thereby, the petitioner preferred the aforesaid appeal and the same was dismissed by the learned Sessions Judge confirming the judgment of the trial Court on the ground that the trial Court has not

committed any error. Challenging the said judgment, the petitioner filed this Criminal Revision Case.

3. Heard and perused the material available on record.

4. Even though the matter is listed under the caption “For dismissal”, none appears and there is no representation on behalf of both sides. The trial Court, upon consideration of evidence in proper perspective, rightly convicted the petitioner and the same was confirmed by the appellate Court. Therefore, there are no grounds to interfere with the concurrent findings recorded by the Courts below. The transaction relates to the year 2004. However, taking into consideration due to elapse of time, the sentence of imprisonment imposed by the Courts below is hereby set aside.

5. In the result, the conviction imposed against the petitioner in the judgment, dated 12.07.2006, in Criminal Appeal No.166 of 2005 on the file of I Additional Sessions Judge, Chittoor for the offence punishable under Section 138 of the Negotiable Instruments Act is confirmed. However, the sentence of imprisonment imposed by the trial Court, which was confirmed by the first appellate Court, for the said offence is set aside. The other part of the judgment of trial Court, which was confirmed by the appellate Court, is not interfered with.

6. Accordingly, this Criminal Revision Case is partly allowed. Miscellaneous petitions pending, if any, in this Criminal Revision Case shall stand closed.

JUSTICE RAJA ELANGO

27.09.2016
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Date: 27.09.2016

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