

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2017

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM
Crl.R.C.No.257 of 2014

K.Ramasubbu

.. Petitioner

Vs.

V.Sivakumar

.. Respondent

Criminal Revision filed under Section 397 and 401 Cr.P.C. against the order of learned I Additional District Sessions Judge, Coimbatore, passed in C.A.No.76 of 2013 on 30.08.2013 confirming the judgment of learned Judicial Magistrate, Fast Track Court, Magistrate Level-II, Coimbatore, passed in S.T.C.No.286 of 2012 on 22.05.2013.

For Petitioner : Mr.C.D.Johnson

For Respondent : Mr.K.S.Karthik Raja

O R D E R

This revision arises against two concurrent judgments of Courts below, convicting petitioner for offence u/s.138 of the Negotiable Instruments Act and sentencing him to undergo four months S.I. and pay fine of Rs.1,500/- i/d one month S.I.

2. Respondent/complainant moved a prosecution informing that cheque dated 30.03.2011 for Rs.1,62,800/- drawn on ICICI Coimbatore Branch, stood issued to him by petitioner towards part discharge of the total amount due under pro-note, which upon presentation, returned unpaid for the reason "Account Closed" on 02.04.2011. Respondent/complainant caused statutory notice and following the procedures envisaged under Section 138 of the Negotiable Instruments Act, a complaint had been laid.

4. Before the trial Court, the complainant examined himself as witness and marked six exhibits. Accused himself examined on behalf of the defence and did not mark any exhibit.

5. On an appreciation of materials before it, the trial Court, under judgment in S.T.C.No.260 of 2011 dated 22.05.2013, convicted the petitioner for offence under Section 138 of Negotiable Instruments Act and sentenced him to undergo

four months S.I. and to pay fine of Rs.1,500/- i/d one month S.I. The appeal preferred by petitioner in C.A.No.76 of 2013 on the file of learned I Additional District and Session Judge, Coimbatore, came to be dismissed under judgment dated 30.08.2013. Hence, this revision.

6. Heard learned counsel for petitioner and learned counsel for respondent.

7. Learned counsel for respondent submits that the interim order of this Court dated 05.03.2014 requiring the petitioner to deposit a sum of Rs.50,000/- to the credit of S.T.C.No.286 of 2012 on the file of the Judicial Magistrate, Fast Track Court, Magistrate Level-II, Coimbatore, has not been complied with. However, the learned counsel for respondent submitted that the respondent would be satisfied, if the total cheque amount of Rs.1,62,800/- is made good to him by the accused.

8. Learned counsel for petitioner submits that the said sum will be paid to the credit of S.T.C.No.286 of 2012 within a period of six months.

9. Accordingly, while confirming the finding of conviction arrived at by Courts below, this Court alters the sentence to

(i) requiring the petitioner to effect payment of compensation in a sum of Rs.1,62,800/- to the credit of S.T.C.No.260 of 2011 on the file of learned Judicial Magistrate, Fast Track Court, Magistrate Level-II, Coimbatore, within a period of six months from today. In default, petitioner will undergo 4 months S.I.

(ii) Respondent may, on due application, seek payment out of the sum to be deposited by the petitioner/accused pursuant to this order.

10. The Criminal Revision Case shall stand disposed of with the above modification.

Sd/-
Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

kmi

To

1.The I Additional District Sessions Judge,
Coimbatore.

2.The Judicial Magistrate,
Fast Track Court, Magistrate Level-II,
Coimbatore.

3. The Judicial Magistrate,
NO.vi, coimbatore.

4. The Chief Judicial Magistrate,
coimbatore, (for Information)

+1cc to Mr.K.S.KARTHIK RAJA, Advocate, S.R.No. 69189

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RR(CO)
TR(14/12/2017)



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