

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2017

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.9 of 2017

and

Crl.M.P.No.54 of 2017

K.Eshwarmallu

S/o.Late Balachennaiah

..Petitioner/Appellant/
Accused

Vs.

K.Sundar

S/o.Kannappan

.. Respondent/Respondent/
Complainant

Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C. against the judgment of learned Principal District and Sessions Judge, Tiruvallur, passed in C.A.No.77 of 2015 on 18.10.2016 confirming the judgment of learned Judicial Magistrate, Fast Track Court, Ambattur, passed in C.C.No.676 of 2014 on 18.09.2015.

For Petitioner : Mr.P.Tamilavel

For Respondent : Mr.S.Senthilmurugan

Amicus curiae

O R D E R

This revision arises against two concurrent judgments of Courts below convicting the petitioner for offence u/s.138 of the Negotiable Instruments Act and sentencing him to 1 month S.I. and to pay compensation in a sum of Rs.65,200/- to the complainant.

2. Respondent/complainant moved a prosecution informing that petitioner/accused borrowed a sum of Rs.65,200/- from him and towards repayment thereof, cheque bearing No.911312 dated 01.09.2007 drawn on State Bank of India, Nellore, stood issued to him, which upon presentation was returned unpaid for the reason "insufficient funds". Respondent/ complainant caused statutory notice and following the procedure envisaged under Section 138 of the Negotiable Instruments Act, a complaint had been filed.

3. Before the trial Court, respondent/complainant examined two witnesses and marked four exhibits. One witness was examined on behalf of defence and five exhibits were marked.

4. On appreciation of materials before it, the trial Court, under judgment dated 18.09.2015, convicted the petitioner and sentenced him to 1 month S.I. and to pay compensation in a sum of Rs.65,200/- to the complainant. The appeal preferred by petitioner in C.A.No.77 of 2015 on the file of learned Principal District and Sessions Judge, Tiruvallur, came to be dismissed under judgment dated 18.10.2016. Hence, this revision.

5. Heard learned counsel for petitioner and learned Amicus Curiae. Perused the materials on record.

6. Having regard to the fact that the cheque giving rise to the question is not in too large a sum and only in a sum of Rs.65,200/-, that the petitioner, as a ***Postal Department employee** suffers severe consequences and the submission that the petitioner is not involved in any other offences, this Court, even while confirming the finding of conviction and compensation directed by the Court below, considers it appropriate to afford the petitioner the benefit of Section 3 of the Probation of Offenders Act.

7. Accordingly, admonitioning the petitioner, this Court releases him under Section 3 of the Probation of Offenders Act. It is represented that already a sum of Rs.30,000/- has been paid. The balance cheque amount of Rs.35,200/- shall be deposited by the petitioner to the credit of C.C.No.676 of 2014 on the file of learned Judicial Magistrate, Fast Track Court, Ambattur, within a period of two weeks from today. It is made clear that in keeping with Section 12 of the Probation of Offenders Act, the petitioner shall not suffer disqualification, attaching to his conviction.

The Criminal Revision Case is disposed of with the above direction. Connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS VIII)

***Corrected order as per
order of this Court dated 27/04/2017**

-s/d-

Assistant Registrar(CSVIII)

dt: 28/04/2017

/true copy/

Sub Asst. Registrar

gm

To

1. The Principal District and
Sessions Judge,
Tiruvallur.

To be Substituted order
already despatched on
14.03.2017

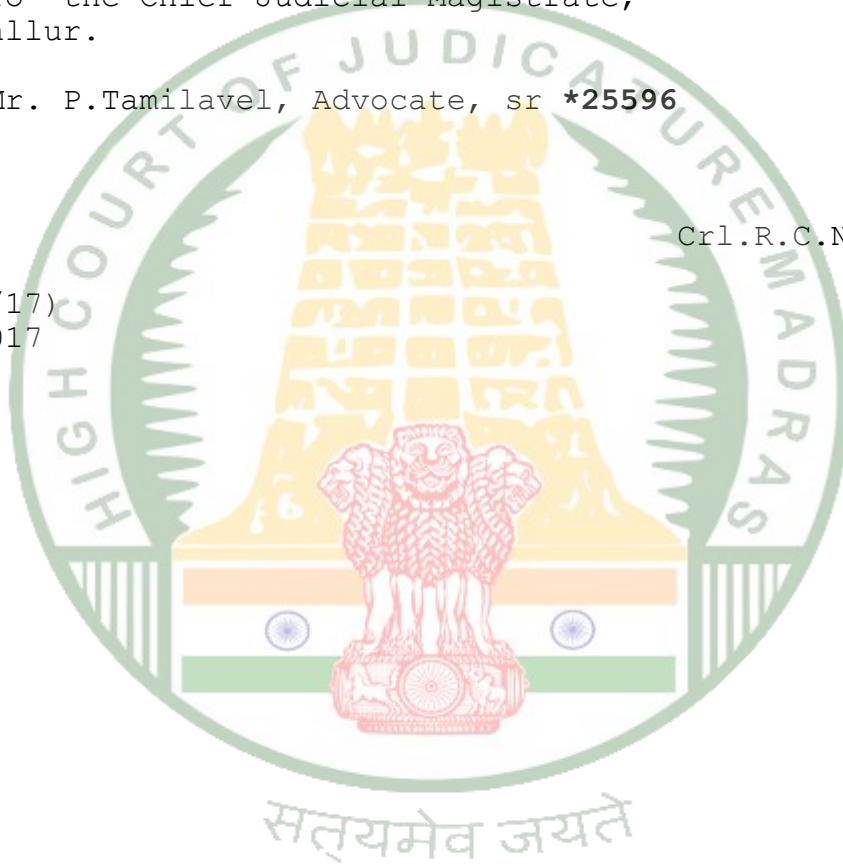
2. The Judicial Magistrate,
Fast Track Court,
Ambattur.

3. Do -thro- the Chief Judicial Magistrate,
Thiruvallur.

+1 cc to Mr. P.Tamilavel, Advocate, sr *25596

Crl.R.C.No.9 of 2017

EV (CO)
RMP (14/03/17)
aa28/04/2017



WEB COPY