

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2017

CORAM:

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

Crl.R.C.No.1011 of 2016

and

Crl.M.P.No.8145 of 2016

V.Chinnusamy
S/o.Venkatachalam

.. Petitioner

Vs.

1.S.Dinesh Kumar
S/o.Subramaniam

2.The State by
Public Prosecutor
Erode District

.. Respondents

Criminal Revision filed under Sections 397 (1) r/w and 401 Cr.P.C. against the judgment of learned II Additional District Sessions Judge, Erode, passed in C.A.No.86 of 2015 on 01.06.2016 confirming the judgment of learned Judicial Magistrate, Fast Track Court II, Erode, passed in S.T.C.No.159 of 2013 on 01.07.2015.

For Petitioner : Mr.I.C.Vasudevan

For Respondents : No Appearance for R1

Mr.M.Mohammed Riyaz
Govt.Advocate (Crl.side) for R2

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 year R.I. and fine of Rs.5,000/- i/d 1 months S.I.

2. First respondent/complainant moved a prosecution informing that petitioner/accused borrowed a sum of Rs.1,25,000/- on 13.09.2012 from him and towards repayment thereof, cheques bearing No.212616 dated 13.10.2012 drawn on

South Indian Bank, Erode, stood issued to him, which upon presentation was returned unpaid for the reason "insufficient funds". First 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 himself and marked four exhibits. None were examined on behalf of the defence nor were any exhibits marked.

4. On appreciation of materials before it, the trial Court, under judgment dated 01.07.2015, convicted the petitioner and sentenced him to 1 year S.I. and fine of Rs.5,000/- i/d 1 month S.I. The appeal preferred by petitioner in C.A.No.86 of 2015 on the file of learned II Additional District Sessions Judge, Erode, came to be dismissed under judgment dated 01.06.2016. Hence, this revision.

5. Heard learned counsel for petitioner. There is no representation for 1st respondent.

6. Given the facts and circumstances of the case and taking into consideration that the petitioner has deposited a sum of Rs.62,500/- pursuant to order of this Court in CrI.M.P.No.8145 of 2016 dated 04.08.2016, this Court even though confirms the finding of conviction considers it appropriate to alter the sentence to one of fine in a sum of Rs.1,30,000/-. Petitioner, pursuant to order of Court below, has deposited a sum of Rs.5,000/- and pursuant to order of this Court referred to above, deposited a sum of Rs.62,500/-. The petitioner shall now be required to deposit the balance amount of Rs.62,500/- to the credit of STC.No.159 of 2013 on the file of II Judicial Magistrate, Fast Track Court II, Erode within a period of two weeks from the date of receipt of a copy of this order. In default, the petitioner shall undergo simple imprisonment for a period of six months. The respondent will be entitled to withdraw all sums deposited to the credit of S.T.C.No. 159 of 2013 on the file of learned Judicial Magistrate Fast Track Court II, Erode.

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

s/d-
Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

To

1.The II Additional District Sessions Judge, Erode

2.-do-Thro'The Principal District Sessions Judge, Erode.

3. The Judicial Magistrate,
Fast Track Court II, Erode

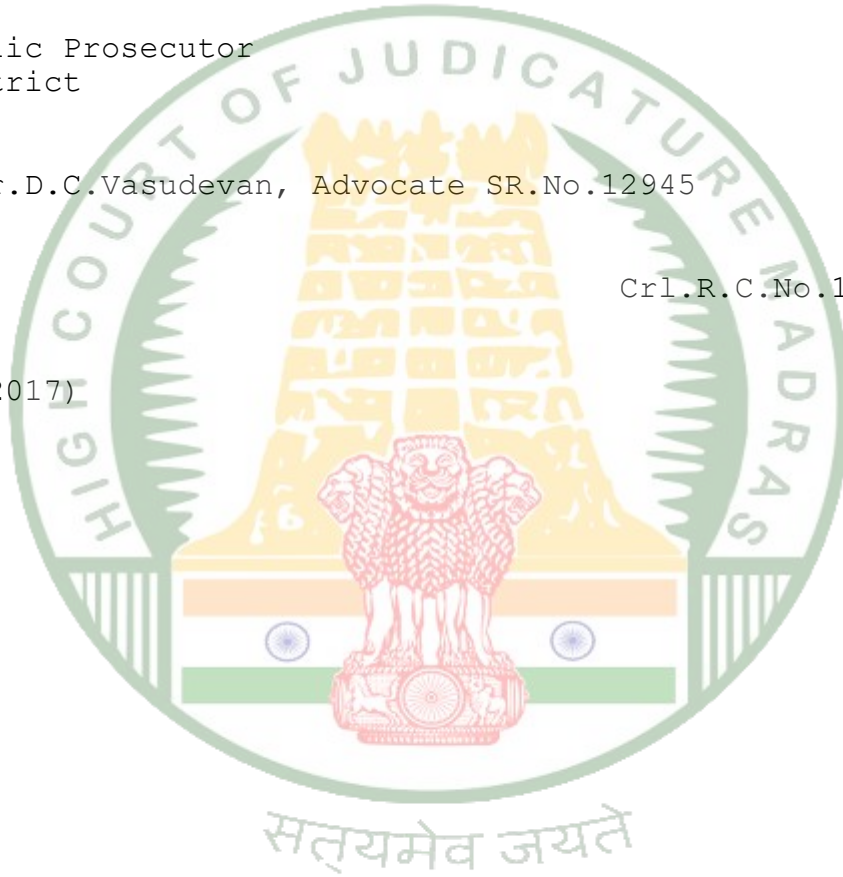
4.-do-thro'The Chief Judicial Magistrate, Erode.

5.The Public Prosecutor
Erode District

+lcc to Mr.D.C.Vasudevan, Advocate SR.No.12945

Crl.R.C.No.1011 of 2016

VD(CO)
GN(07/04/2017)



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