

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2017

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.R.C.Nos.913 and 914 of 2009

V.Tamilmani  
S/o.Vedhaiyan

... Petitioner in both revisions

vs

S.Rajakumar  
S/o.Late Sundaramoorthy  
Rep. By his power of Attorney  
Agent Thiru D.Subbarayan

... Respondent in both revisions

Criminal Revisions filed under section 397 r/w 401 of the Code of Criminal Procedure, against the judgments of learned Additional District and Sessions Judge, Fast Track Court - III, Chennai, passed in C.A.Nos.132 and 133 of 2007 on 11.09.2009 confirming the judgments of learned XIII Metropolitan Magistrate, Egmore, Chennai, passed in C.C.Nos.712 and 4733 of 2003 on 14.05.2007.

For Petitioner : Mr.C.T.Saravanan  
For Respondent : Mr.S.Rajendrian

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**COMMON ORDER**

These revisions arise against concurrent judgments of Courts below convicting petitioner/accused for offence u/s.138 of the Negotiable Instruments Act and sentencing him to 6 months S.I. and directing to pay compensation in a sum of Rs.1,00,000/- in each case.

2. Respondent moved a prosecution informing that petitioner/accused borrowed a sum of Rs.2,00,000/- and Rs.1,00,000/- on 03.06.2002 and 30.04.2002 respectively and issued cheques bearing Nos.106398 dated 15.06.2002 and 106397 dated 16.05.2002 drawn on Indian Bank, Myiladuthurai, in sums of Rs.1,00,000/- each towards repayment thereof, which, on presentation, were returned unpaid for the reason 'Account Closed'. Respondent/complainant following the procedure envisaged u/s.138 of the Negotiable Instruments Act, preferred complaints and the same were taken on file in C.C.Nos.712 and 4733 of 2003 on the file of learned XIII Metropolitan Magistrate, Egmore, Chennai.

3. Before trial Court, the following witnesses were examined and exhibits were marked:

|                        | <b>C.C.No.712 of 2003</b> |   | <b>C.C.No.4733 of 2003</b> |   |
|------------------------|---------------------------|---|----------------------------|---|
| Respondent/complainant | 2                         | 8 | 2                          | 8 |
| Petitioner/Accused     | 2                         | 3 | 2                          | 1 |

On appreciation of materials before it, trial Court, under judgments dated 14.05.2007, convicted petitioner/accused for offence u/s.138 of the Negotiable Instruments Act and sentenced him to 6 months S.I. and directed to pay compensation in a sum of Rs.1,00,000/- in each case. Against such finding, petitioner/accused preferred C.A.Nos.132 and 133 of 2007 on the file of learned

Additional District and Sessions Judge, Fast Track Court - III, Chennai, which came to be dismissed under judgments dated 11.09.2009. Hence, these revisions.

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

5. On a perusal of judgments under this challenge, this Court finds no reason to interfere with the finding of conviction arrived at by Courts below. However, considering the value of cheques giving rise to the action and the submission of learned counsel for petitioner that petitioner is now aged 70 years and suffers from various ailments, this Court is of the view that the sentence of imprisonment may be altered to 3 months S.I. Accordingly, this Court, while confirming the finding of conviction, alters the sentence to one of 3 months S.I. in each case. Sentences to run concurrently.

The Criminal Revision Cases are disposed of with the above modification.

14.09.2017

Index:yes/no  
Internet:yes  
gm

**C.T.SELVAM, J**

gm

To

1.The Additional District and Sessions Judge,  
Fast Track Court - III,  
Chennai.

2.The XIII Metropolitan Magistrate,  
Egmore,  
Chennai.



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