



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 09.10.2018

CORAM:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.R.C. (MD) No.731 of 2016

and

Crl.M.P. [MD]. No.1586 of 2017

Palaniyappan

...Petitioner/Respondent/Complainant

Vs.

Annamalai

... Respondent/Appellant/Accused

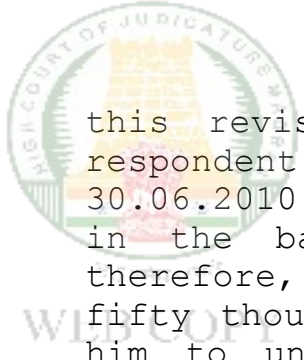
PRAYER: Criminal Revision Petition is filed under Section 397 of Cr.P.C., to set aside the order in C.A.No.40 of 2011, dated 27.04.2016 passed by the learned Sessions Judge, Sivagangai by modifying the order imposed by lower Court in S.T.C.No.1332/2010, dated 14.09.2011, the conviction and sentence to undergo one year rigorous imprisonment and to pay a compensation of Rs.1,50,000/- of the offence under Section 138 of Negotiable Instrument Act and directed the respondent/appellant/accused to pay the compensation amount within six months from the date of this order if the respondent/appellant/accused has not paid the amount within four months, the petitioner can take action for recovery of amount under Revenue Recovery Act or any other law and direct the respondent to pay interest @ 18% per annum from 07.07.2010 to till date of payment on Rs.1,50,000/- and the cost of the entire proceedings by allowing this Criminal Revision petition.

For Petitioner: Mr.A.Haja Mohideen

For Respondent: Mr.A.Anandan

ORDER

This Criminal Revision Petition has been filed against the judgment of the First Appellate Court passed in C.A.No.40 of 2011, partly modifying the judgment of the trial Court in the case arising under Section 138 of the Negotiable Instrument Act. The cheque amount is to a sum of Rs.1,50,000/- (Rupees one lakh and fifty thousand only). The trial Court has found the revision petitioner guilty of dishonoring the cheque given by him to discharge legal enforceable debt, resulting in sentenced him to undergo one year rigorous imprisonment and to pay a compensation of Rs.1,50,000/- (Rupees one lakh and fifty thousand only). On appeal, the First Appellate Court has partly allowed by upholding the sentence of granting time to pay a compensation of Rs.1,50,000/- (Rupees one lakh and fifty thousand only), within a period of four months. The sentence of one year rigorous imprisonment was set aside. Aggrieved by the said modification of the sentence the petitioner / complainant herein has preferred



this revision on the ground that the cheque issued by the respondent / accused to discharge the loan received by him on 30.06.2010 was dishonored. If the said money has been deposited in the bank, it would have been doubled by this time and therefore, mere compensation of Rs.1,50,000/- (Rupees one lakh and fifty thousand only) paying the cheque amount without sentencing him to undergo imprisonment is highly disproportionate to the offence. Further, it is contended by the revision petitioner that even the said order of paying compensation within a period of four months has not been complied by the respondent.

2. When the matter was taken up for final disposal, the learned counsel for the petitioner and the learned counsel for the respondent submitted that the parties were present before this Court. A Joint Memo signed by the petitioner and the respondent through their respective counsels stating that the matter has been amicably settled between the parties has been filed and the respondent has given a demand draft for a sum of Rs.1,00,000/- (Rupees one lakh only), on 25.09.2018. On the receipt of the same, the petitioner has no further claim against the respondent. The Joint Compromise Memo shall form part of this order.

3. In view of the Joint Compromise Memo filed by both the parties, this Criminal Revision Petition is closed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS-I)

Encl: Joint Compromise Memo

To

1.The Sessions Judge, Sivagangai.

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

+ 1 CC TO MR.A.HAJA MOHIDEEN, ADVOCATE IN SR NO.89548

+ 1 CC TO MR.A.ANANDAN, ADVOCATE IN SR NO.89448

SJI

BU/SKN/SAR-1 :12.11.2018 : 2P/5C

Cr1.R.C. (MD) No.731 of 2016
and

Cr1.M.P. [MD] .No.1586 of 2017
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