

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1497 of 2011

S.Somnath

...Petitioner

Vs.

K.P.Narayanan

...Respondent

The Criminal Revision case filed under Section 397 read with 401 of Code of Criminal Procedure seeking to set aside the order dated 13.09.2011 in Criminal Appeal No.87 of 2010 passed by the learned Additional District-cum-Fast Track Judge - 4, Ponneri, confirming the conviction and sentence against the petitioner in C.C.No.26 of 2009, dated 06.09.2010 on the file of the learned Judicial Magistrate, Thiruvottriyur.

For Petitioner : Mr.Ashok Menon

For Respondents : Mr.V.Parthiban

ORDER

The present criminal revision revision has been filed against the two concurrent judgment of conviction for the offence under Section 138 of Negotiable Instruments Act (for brevity 'the NI Act').

2 The petitioner is accused and respondent is complainant. The respondent had filed a private complaint under Section 200 of Cr.P.C. against the petitioner for the offence punishable under Section 138 of Negotiable Instruments Act, which was taken on file in C.C.No.26 of 2009 by the learned Judicial Magistrate, Thiruvottriyur. The learned Magistrate, after trial, found the petitioner/accused guilty and by judgment dated 06.09.2010, convicted the petitioner/accused and sentenced him to undergo simple imprisonment for a period of three months and imposed fine of Rs.5000/-, in default, to undergo simple imprisonment for a further period of one month. Aggrieved against the judgment of conviction, the petitioner/accused has preferred an appeal before the learned Additional District and Sessions Judge, Fast Track Court No.4, Ponneri, in C.A.No.87 of 2010. The learned Sessions Judge, after hearing both the

parties, by judgment dated 13.09.2011, dismissed the appeal and confirmed the judgment of conviction made by the trial Court, against which, the petitioner is before this Court with the present criminal revision.

3 When the matter is taken up for hearing the learned counsel appearing for the accused seeks time to make some payment and requested the Court to refer the matter to Mediation Centre. But it is seen that the petitioner has not taken any steps to settle the matter earlier and the revision is pending from the year 2011, now he has taken a stand that he is trying to settle the matter. Therefore this Court is not inclined to grant any adjournments and is gone through the papers to dispose of the revision on merit.

4 On a perusal of the records, it is seen that the revision petitioner has admitted his signature and execution of cheque and hence presumption under Section 118 and 139 of NI Act would come into play and it is for the petitioner/accused to rebut the same in the manner known to law. Both the Courts below have concurrently held that the revision petitioner has committed offence under Section 138 of NI Act and convicted him, in which this Court does not find any perversity to take a different view. However, the learned counsel for the petitioner submitted that the petitioner is ready to make some payment towards settling the matter.

5 Considering the submissions made on behalf of the petitioner/accused and the fact that the revision is pending from the year 2011 without any progress, the conviction made by both the Courts below is hereby confirmed and sentence of imprisonment alone set aside on condition that the petitioner shall pay double the cheques amount as compensation to the respondent/complaint i.e. Rs.1,88,000/- within a period of ten days from the date of receipt of a copy of this order, in default, to undergo simple imprisonment for a period of six months.

6 With the above modification and directions, this criminal revision case is dismissed.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1) The Judicial Magistrate, Thiruvottriyur.

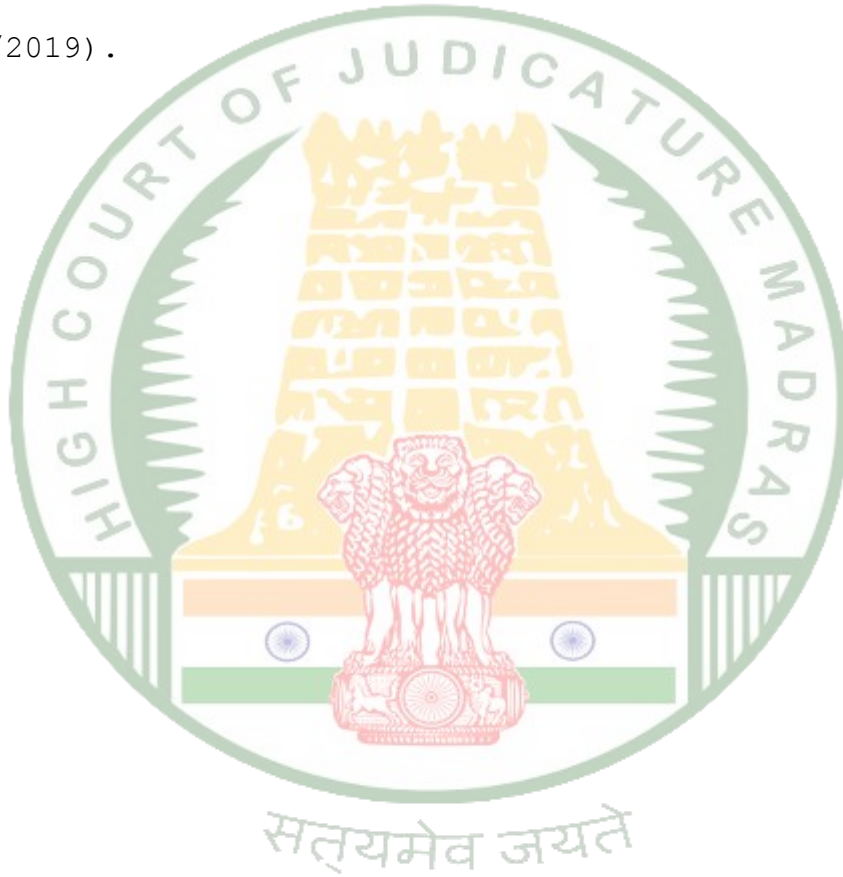
2) The Additional District-cum-Fast Track Judge - 4, Ponneri.

+1 cc to M/s.Ashok Menon, Advocate, S.R.No.51074

+1 cc to M/s.V.Parthiban, Advocate, S.R.No.51370

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BP (CO)
SSM(03/09/2019) .



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