

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.08.2019

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.R.C.No.838 of 2019

K.Murugeshwari .. Petitioner/Complainant

Vs

S.B.Prabhakar .. Respondent/Accused

Criminal revision preferred under Section 397 and Section 401 Cr.P.C. to set aside the judgment and order dated 11.06.2019 in Crl.A.No.109 of 2018 on the file of the IV Additional District and Sessions Judge, Thiruvallur @ Ponneri.

For Petitioner : Mr.K.Seetharam

O R D E R

This Criminal Revision has been preferred to set aside the order dated 11.06.2019 passed in Crl.A.No.109 of 2018 by the IV Additional District and Sessions Judge, Thiruvallur @ Ponneri.

2. For the sake of convenience, the petitioner and the respondent are referred to as the complainant and the accused respectively.

3. The complainant initiated a prosecution before the Judicial Magistrate No.II, Ponneri in S.T.C.No.73 of 2016 against the accused for the offence under Section 138 of the Negotiable Instruments Act, 1881 in respect of a cheque for Rs.1,10,000/-. By judgment and order dated 18.04.2018 in S.T.C.No.73 of 2016, the trial Court convicted the accused and sentenced him to undergo 1 month simple imprisonment and pay a compensation of Rs.1,10,000/- to the complainant, in default to undergo two weeks simple imprisonment. Challenging the quantum of sentence, the complainant preferred C.A.No.109 of 2018 under the proviso to Section 372 Cr.P.C. before the Court of Session, which was dismissed by the IV Additional District and Sessions Court, Tiruvallur on 11.06.2019. Challenging the judgment and order, the complainant is before this Court.

4. Heard the learned counsel for the complainant, who submitted that the sentence of 1 month imprisonment imposed by the trial Court is very meager and the trial Court ought to have imposed the maximum sentence of 2 years imprisonment.

5. This Court gave its anxious consideration to the submissions made by the learned counsel for the complainant.

6. Section 138 of the Negotiable Instruments Act, 1881 is a technical offence for a substantial civil wrong and there is no minimum sentence prescribed by the statute. It is not incumbent on the trial Court to impose a sentence of imprisonment in all cases and in a given case, the trial Court can also impose a sentence of fine. In this case, the cheque amount is only Rs.1,10,000/- and taking that into consideration, the trial Court has imposed a reasonable sentence of 1 month simple imprisonment and has also awarded the cheque amount as compensation, which in the opinion of this Court, cannot be said to be perverse warranting interference under Section 397 r/w 401 Cr.P.C.

In the result, this petition is dismissed being devoid of merits.

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

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To

1.The Judicial Magistrate No.II,
Ponneri.

2.Do Thro The Chief Judicial Magistrate, Tiruvallur

3.The IV Additional District and Sessions Judge,
Thiruvallur @ Ponneri.

4.Do Thro The Principal Sessions Judge, Tiruvallur

+1 CC to Mr.K.Seetharam, Advocate sr 75356.

CRL.R.C.No.838 of 2019

SKV(CO)
SP(19/09/2019)