



Crl.A.(MD)No.223 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.A. (MD)No.223 of 2012

WEB COPY

M.Mariyappan

... Appellant/Respondent/Complainant
Vs.

M.Subramani

... Respondent/Respondent/Accused

Prayer: Criminal Appeal filed under Section 378 of Cr.P.C, to set aside the order of acquittal passed in C.A.No.51 of 2011, dated 10.02.2012 by the learned Sessions Judge, Karur, reversing the conviction and sentence imposed on the accused in C.C.No.348 of 2006, dated 27.06.2011, on the file of the learned Judicial Magistrate No.I, Karur.

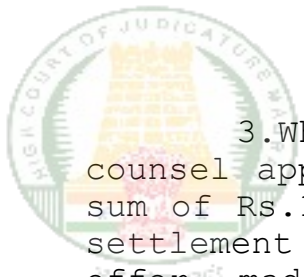
For Appellant : Mr.N.Shanmugaselvam

For Respondent : Mr.B.Saravanan

J U D G M E N T

The appellant in this case is the complainant in C.C.No.348 of 2006, on the file of the learned Judicial Magistrate No.I, Karur. It is arising under Section 138 of Negotiable Instruments Act. The respondent had issued the complaint cheque/Ex.P.2, dated 01.07.2003 for a sum of Rs.1,60,000/- in favour of the complainant. The said cheque on being presented for collection was returned unpaid. After following the statutory formalities, the appellant filed C.C.No.348 of 2006 before the learned Judicial Magistrate No.I, Karur. The appellant examined himself as P.W.1 and marked Exs.P.1 to P.7. The respondent examined himself as D.W.3. He also examined two other witnesses in support of his defence. He marked Exs.D.1 to D.6.

2.The learned Trial Judge after a detailed consideration of the evidence on record, by the impugned judgment dated 27.06.2011 found the respondent/accused guilty and sentenced him to undergo one year simple imprisonment the respondent/accused was also directed to pay compensation of Rs.1,60,000/- to the appellant/complainant within one month. Default sentence was also imposed. The accused/respondent filed Crl.A.No.51 of 2011 before the learned Sessions Court, Karur. By judgment dated 10.12.2012, the appeal was allowed the respondent/accused was acquitted. Challenging the same, this criminal appeal came to be filed.



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3. When the matter was taken up for hearing, the learned counsel appearing for the respondent submitted that he would pay a sum of Rs.1,00,000/- on or before 15.09.2019 towards full and final settlement of all liabilities between him and the complainant. This offer made by the respondent/accused is acceptable to the appellant/complainant. The appellant is only apprehensive that the respondent should stick to his words. The parties themselves have arrived at a compromise.

4. The reasons given by the Appellate Court are not at all satisfactory. In this view of the matter, the judgment of the Appellate Court is set aside, the judgment passed by the learned Trial Magistrate finding the respondent guilty is restored. However, the sentence of imprisonment imposed by the Trial Magistrate is set aside. The respondent/accused is directed to pay a sum of Rs.1,00,000/- as compensation to the complainant on or before 15.09.2019. In the event failure on part of the respondent to do so, he will have to undergo default sentence of six months simple imprisonment. This criminal appeal is allowed on these terms.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

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To:

1. The Sessions Judge, Karur.

2. The Judicial Magistrate No.I, Karur.

+1 CC to Mr.B. SARAIVANAN, Advocate (SR-83607[F] dated 27/08/2019)

+1 CC to Mr.N. SHAN MUGA SELVAM, Advocate (SR-83687[F] dated 27/08/2019)

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VB(30.12.2019) 2P 5C