



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.06.2019

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Cr1. R.C. (MD) No. 231 of 2011

Hapsa Beevi

.. Petitioner

Vs.

1. Russaliah

2. The State of Tamil Nadu,
Represented by,
The Public Prosecutor,
Nagercoil,
Kanyakumari District.

.. Respondents

Prayer : This Criminal Revision petition is filed under Section 397 r/w 401 of Cr.P.C., to revise the order of conviction and sentence imposed on the petitioner by the learned Judicial Magistrate, Padmanabapuram, Kanyakumari District, by means of a Judgment dated 09.11.2005 in C.C.No.404 of 1998 directing the petitioner to undergo 1 year Simple Imprisonment along with a fine of Rs.5,000/- in default to undergo Simple Imprisonment for a period of 3 months for the offence under Section 138 of the Negotiable Instrument Act as confirmed subsequently by the learned Sessions Judge, Kanyakumari Division at Nagercoil dated 18.02.2011 made in C.A.No.298 of 2005.

For Petitioner	: Mr.S.Palanivelayutham
For R-1	: Mr.K.Sreekumaran Nair
For R-2	: Mr.A.Robinson,
	Government Advocate (Cr1. Side).

ORDER

The petitioner herein was convicted for the offence under Section 138 of the Negotiable Instruments Act in C.C.No.404 of 1998 on the file of the learned Judicial Magistrate, Padmanabhapuram. It was confirmed in C.A.No.298 of 2005 on the file of the learned Sessions Judge, Kanyakumari Division at Nagercoil. The same are under challenge in this Criminal Revision petition.

2. When the matter was taken up for hearing, the learned counsel appearing for the Revision petitioner states that he would not seriously contest the findings of guilt and he would only seek leniency in the matter of sentence.



3. It is seen that the cause of action dates back to the year 1998. Therefore, sending the petitioner at this point of time to prison may not really be in the interest of justice. This is all the more so because, the petitioner is now willing to pay the entire cheque amount within a period of three months from the date of receipt of a copy of this order.

4. In this view of the matter, the Conviction passed by the Courts below is sustained and the sentence of imprisonment and fine imposed on the petitioner are set aside. The petitioner is directed to pay the cheque amount of Rs.1,40,000/- (Rupees One Lakh and Forty Thousand only) to the credit of C.C.No.404 of 1998 on the file of the learned Judicial Magistrate, Padmanabhapuram, within a period of three months from the date of receipt of a copy of this order. The Legal Aid authorities shall ensure that the compensation amount deposited by the petitioner is disbursed to the complainant, thereafter. In the event of failure on the part of the petitioner to do so, the sentence of imprisonment and fine imposed by the lower appellate Court shall stand restored.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

To

1.The District Sessions Judge,
Kanyakumari Division at Nagercoil.

2.The Judicial Magistrate,
Padmanabapuram, Kanyakumari.

3.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.S.PALANI VELAYUTHAM, Advocate SR-68182[

+1 CC to Mr.K.SREEKUMARAN NAIR, Advocate SR-68105.

Cr1. R.C. (MD) No.231 of 2011
11.06.2019

CS: (27/06/2019) 2P 7C