



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl. R.C. (MD) No. 347 of 2011

E. Menaga

.. Petitioner/Appellant/Accused

Vs.

P. Ponraman

.. Respondent/Respondent/
Complainant

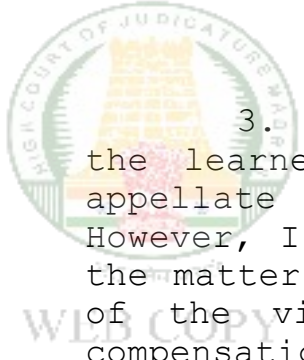
Prayer : This Criminal Revision petition is filed under Sections 397 r/w 401 of Cr.P.C., to call for records and set aside the Judgment passed by the learned Additional Sessions Judge, Fast Track Court No.I, Thoothukudi, in C.A.No.25 of 2010, dated 31.01.2011 confirming the Judgment passed by the learned Judicial Magistrate, Srivaikundam, in S.T.C.No.1419 of 2008, dated 06.04.2010.

For Petitioner : Mr.D.Selvanayagam
For Respondent : No appearance.

ORDER

The petitioner was an accused for the offence under Section 138 of the Negotiable Instruments Act in S.T.C.No.1419 of 2008 on the file of the learned Judicial Magistrate, Srivaikundam. By Judgment dated 06.04.2010, she was found guilty of the said offence and sentenced to 18 months Simple Imprisonment and also directed to pay a sum of Rs.2,50,000/- as compensation. The said Judgment was confirmed by the lower appellate Court in C.A.No.25 of 2010, dated 31.01.2011. Challenging the same, this Criminal Revision petition has been filed.

2. The petitioner's counsel submitted that the petitioner had no relationship whatsoever with the complainant. It appears that the petitioner's brother and complainant had some transaction. Be that as it may, before the trial Court, the petitioner has not established as to how the complaint cheque signed by her reached to the complainant. Therefore, the trial Court held that the presumption under Section 139 of the Negotiable Instruments Act has not been rebutted.



3. I am of the view that the well considered Judgment of the learned trial Magistrate which was confirmed by the lower appellate Court does not warrant any interference by this Court. However, I am of the view that some indulgence has to be shown in the matter of sentence. The petitioner is a lady. Therefore, I am of the view that if she pays the cheque amount by way of compensation, she can be spared. Therefore, the sentence of imprisonment imposed on her is set aside. The petitioner shall pay compensation amount of Rs.2,50,000/- as directed to be paid by her, to the credit of S.T.C.No.1419 of 2008 on the file of the learned Judicial Magistrate, Srivaikundam, within a period of eight weeks from the date of receipt of a copy of this order. If the petitioner failed to do so, the sentence of imprisonment imposed by the trial Court will stand restored.

4. With this modification, the Criminal Revision petition stands partly allowed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

pmu

To

1. The Additional Sessions Judge,
Fast Track Court No.I, Thoothukudi.
2. The Judicial Magistrate, Srivaikundam.
3. The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court, Madurai.

+ 1 CC TO Mr.M.Vinoth Singh Misra, ADVOCATE IN SR No.68438

+ 1 CC TO Mr.V.Natarajan, ADVOCATE IN SR No.68065

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