



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.R.C (MD) No.875 of 2013

WEB COPY
Rajendran

... Petitioner/Appellant/Accused

Vs

Maharajan

... Respondent/Respondent/Complainant

PRAYER: Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to allow this revision petition and set aside the order of conviction and sentence imposed on him by the III Additional District and Sessions Judge, Tirunelveli, dated 08.10.2013 made in Crl.A.No.47 of 2010 by confirming the conviction and sentence imposed by the learned Judicial Magistrate, Valliyoor, Tirunelveli District, dated 02.02.2010 in C.C.No.147 of 2006.

For Petitioner : Mr.S.Palani Valayutham

For Respondent : No Appearance

ORDER

The petitioner had issued Ex.P1 cheque, dated 10.11.2015 in favour of the respondent herein. The respondent presented the same for collection. But the same was returned unpaid for the reason of insufficient funds in the petitioner's account. Ex.P2 and P3 are the return memos. The complainant issued Ex.P4 Statutory Notice, dated 07.02.2006 calling upon the petitioner to pay the cheque amount. The respondent received the acknowledgement card. But, then he did not choose to respond or comply with the demand set out in the statutory notice. Hence, the respondent filed C.C.No.147 of 2006 on the file of the learned Judicial Magistrate, Valliyoor.

2.The complainant examined himself as PW1 and marked Exhibits P1 to P6. The accused did not adduce any evidence. The learned trial Magistrate by judgment, dated 02.02.2010, found the petitioner guilty of offence under Section 138 of Negotiable Instruments Act and sentenced him to undergo one year rigorous imprisonment and imposed fine of Rs.5,000/-.

3.Challenging the same, the petitioner filed Crl.A.No.47 of 2010, before the III Additional District Judge, Tirunelveli. By judgment, dated 08.10.2013, the appeal was dismissed and the



judgment of the trial Magistrate was confirmed. Questioning the same, this criminal revision petition has been filed.

4. When the matter was taken up for hearing, the learned counsel appearing for the petitioner submitted that having regard to the facts on record, the petitioner is not questioning the finding of guilt and he would be satisfied if some indulgence shown in the matter of sentence. The petitioner has come forward to deposit the entire amount of Rs.2,00,000/- to the credit of C.C.No.147 of 2006 on the file of the Judicial Magistrate, Valiyoor, within a period of three months. Upon such deposit by the petitioner, the same can be withdrawn by the complainant as his compensation.

5. In view of the above submission made by the learned counsel for the petitioner, the conviction imposed on the petitioner is sustained. The sentence imposed on him is set aside. The petitioner's counsel states that he would not apply for refund of the fine amount. The petitioner shall deposit the cheque amount of Rs.2,00,000/- as compensation within a period of three months from the date of receipt of a copy of this order. In default, he will undergo simple imprisonment for six months. The judgment of the lower court is accordingly modified. This revision petition is partly allowed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The III Additional District Judge, Tirunelveli.

2. The Judicial Magistrate, Valliyoor.

3. The Section Officer/Record Keeper, -2 copies

VR Section

Madurai Bench of Madras High Court, Madurai.

+1 cc to Mr.S.Palani Velayutham , Advocate SR.No.73014

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