

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2020

CORAM :

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

Crl. R.C. No.1446 of 2013

Soundappan

... Revision Petitioner/Complainant

Vs.

1.Navin Granites (Private) Limited,
Represented by its Director,
R.Balasubramaniam

2.R.Balasubramaniam

...Respondents/Accused

Criminal Revision Case filed under Section 397 r/w. 401 Cr.P.C., to set aside the sentence of imprisonment imposed in judgment dated 24.03.2007 in S.T.C.No.2518 of 2006 on the file of the Court of Judicial Magistrate No.4, Salem, and consequently, to enhance the same.

For Petitioner : Ms.M.N.Preethi Rajan
for Mr.K.Selvaraj

Respondents : Not ready in notice

O R D E R

This Criminal Revision Case has been filed to set aside the sentence of imprisonment imposed in judgment dated 24.03.2007 in S.T.C.No.2518 of 2006 on the file of the Court of Judicial Magistrate No.4, Salem, and to consequently, enhance the same.

2.For the sake of convenience, the petitioner and the respondents will be referred to as complainant and accused, respectively.

3.It is the case of the complainant that the accused had purchased granite from him on 16.05.2004, towards which, the accused issued two cheques dated 12.08.2004 and 13.12.2004, for Rs.2,00,000/- each; when the cheques were presented by the complainant, they were dishonoured on 16.12.2004 for insufficiency of funds; after issuing a statutory demand notice dated 22.12.2004, the complainant initiated a prosecution in S.T.C.No.2518 of 2006 before the Court of Judicial Magistrate

No.4, Salem, for the offence under Section 138 of the Negotiable Instruments Act, against the accused.

4.The complainant examined himself as P.W.1 and marked Exs.P1 to P6. R.Balasubramaniam (A2) examined himself as D.W.1 and marked Exs.D1 to D14.

5.After considering the evidence on record and hearing either side, the trial Court, by judgment and order dated 24.03.2007, in S.T.C.No.2518 of 2006, convicted R.Balasubramaniam (A2) of the offence under Section 138 of the Negotiable Instruments Act and sentenced him to simple imprisonment for six months and to pay the admitted sum of Rs.2,57,911/- as compensation to the complainant, and also to pay a sum of Rs.5,000/- as fine to the complainant.

6.Alleging that the trial Court had given a very less sentence, the complainant has filed the present Criminal Revision Case, before this Court, with a delay of 15 days, for which, he filed M.P.No.1 of 2007 under Section 5 of the Limitation Act, 1963, which was allowed by this Court on 19.11.2013. Thereafter, this revision case was numbered as Crl.R.C.No.1446 of 2013 and the same is pending on the file of this Court without service of notice on the accused.

7.Heard Ms.M.N.Preethi Rajan for Mr.K.Selvaraj, learned counsel for the complainant.

8.Learned counsel for the complainant submitted that the trial Court had given a flea-bite sentence and should have awarded maximum sentence of two years imprisonment, instead, had awarded only six months simple imprisonment.

9.This Court carefully perused the impugned judgment.

10.After considering the evidence adduced by the complainant (P.W.1) and the accused (D.W.1), the trial Court has returned a finding that the accused had admitted that he is due a sum of Rs.2,57,911/- to the complainant, as against the amount covered by the two cheques, viz., Rs.4,00,000/-. In a case of this nature, where the parties have had civil transactions, it cannot be stated as a thumb rule that the Court should give the maximum sentence prescribed under Section 138 of the Negotiable Instruments Act to the accused. That apart, it is also not known as to whether the accused had filed any appeal in the Sessions Court challenging the conviction and sentence and the result thereof.

11.In such view of the matter, this Court is of the opinion that this is not a fit case to interfere into the quantum of sentence awarded by the trial Court at this distant point of time.

As a result, this Criminal Revision Case is dismissed.

s/d-
Assistant Registrar(CO)

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Sub-Assistant Registrar

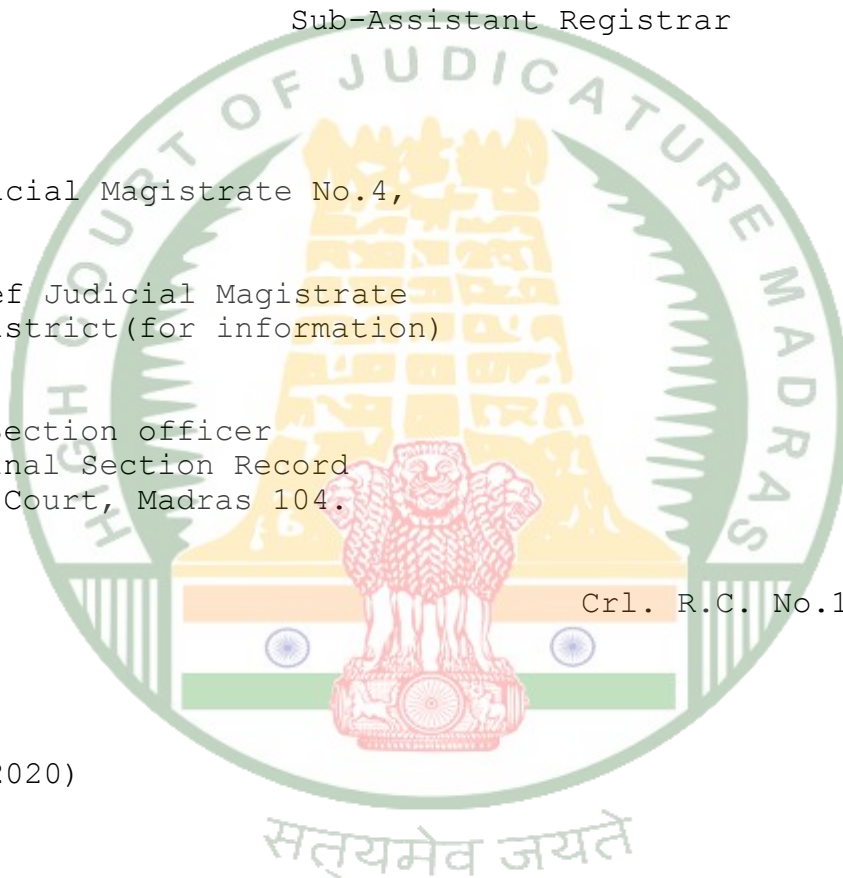
Copy to :

- 1.The Judicial Magistrate No.4,
Salem.
- 2.The Chief Judicial Magistrate
Salem District(for information)

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The Section officer
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High Court, Madras 104.

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NR(CO)
SP(29/09/2020)



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