



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl. R.C. (MD)No.361 of 2016

Abdul Razak

.. Petitioner/Appellant/
Accused

Vs.

S.Manickavel

.. Respondent/Respondent/
Complainant

Prayer : This Criminal Revision is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records of the Fast Track Mahila Court, Sivagangai, in Crl.A.No.22 of 2011 by Judgment dated 30.05.2016, confirming the conviction and sentence of imprisonment imposed by the learned Principal District Munsif-cum-Judicial Magistrate, Karaikudi, in C.C.No.316 of 2005 by the Judgment dated 03.03.2011 and set aside the Judgments of the Courts below and acquit the petitioner.

For Petitioner : Mr.S.Mahendrapathy

For Respondent : Mr.S.Srinivasa Raghavan

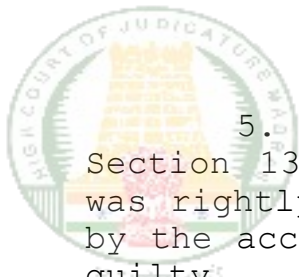
ORDER

Heard the learned counsel on either side.

2. The petitioner was prosecuted for the offence under Section 138 of the Negotiable Instruments Act in C.C.No.316 of 2005 on the file of the Judicial Magistrate, Karaikudi.

3. The case ended in conviction and sentence. The petitioner filed C.A.No.22 of 2011 before the Fast Track Mahila Judge, Sivagangai. Vide Judgment dated 30.05.2016, the appellate Court confirmed the Judgment passed by the trial Court and dismissed the appeal. Challenging the same, this criminal revision case came to be filed.

4. The case of the complainant is that the accused who was a friend had borrowed a sum of Rs.2,00,000/- from him on 29.09.2004 and towards discharge of the said liability issued Ex.P.1 cheque on 01.08.2005 for a sum of Rs.2,00,000/-. When the cheque was presented for collection, it was dishonoured. The account of the accused appears to have been closed already. The complainant issued statutory notice Ex.P.4 on 16.08.2005. The same was also received by the accused on 18.08.2005. Ex.P.5 is the acknowledgement card. The accused did not give any reply nor did he adduce any defence evidence.



5. Considering the circumstances, the presumption under Section 139 of the Negotiable Instruments Act against the accused was rightly invoked by the trial Court and it could not be rebutted by the accused. The Courts below had concurrently found the accused guilty.

6. I find no ground to interfere with the same. The learned counsel appearing for the petitioner also is not in a position to seriously challenge finding of guilt. He only seeks two months time to pay the cheque amount of Rs.2,00,000/-. Even while, confirming the conviction imposed on the petitioner, the sentence of imprisonment imposed on the petitioner is modified as follows:-

i) The revision petitioner is directed to deposit the cheque amount of Rs.2,00,000/- (Rupees Two Lakhs only) to the credit of C.C.No.316 of 2005 on the file of the Judicial Magistrate, Karaikudi, within a period of eight weeks from the date of receipt of a copy of this order.

ii) The complainant can withdraw the said amount without notice to the accused.

iii) If the accused fails to deposit the cheque amount within the time stipulated above, the sentence imposed on the revision petitioner by the Courts below will be automatically restored. If the revision petitioner makes the deposit of the cheque amount within the time stipulated above, the sentence imposed on the revision petitioner by the Court below will not be implemented.

7. With this modification, this criminal revision case is partly allowed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

pmu

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To



2.The Section Officer, (2 Copies)
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.S.SRINIVASA RAGHAVAN, Advocate (SR-24527[F] dated
09/12/2020)

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