



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

Crl.R.C.(MD)No.410 of 2016

WEB COPY

Bennet @ Bennet Yesudas

... Petitioner/Complainant

versus

Arumuga Nainar

... Respondent/Accused

Criminal Revision Case filed under Section 397(1) r/w. 401 of Cr.P.C. seeking to enhance the sentence imposed upon the respondent herein in S.T.C.No.815 of 2006 on the file of Judicial Magistrate No.II, Nagercoil, dated 30.07.2007, which has been confirmed in Crl.A.No.138 of 2007 on the file of the Sessions Judge, Kanniyakumari Division at Nagercoil by awarding suitable compensation u/s.357(3) Cr.Pc. To the petitioner.

For Petitioner : Mr.A.Thiruvadikumar

For Respondent : M/s.Senthil Sankaranatha Kumar

ORDER

The petitioner herein is the defacto complainant. The respondent herein is the accused in S.T.C.No.815 of 2006 on the file of the Judicial Magistrate No.II, Nagercoil and he was charged for the offence punishable under Section 138 of the Negotiable Instruments Act.

2. The trial Court, on 30.07.2007, by considering the oral and documentary evidence, found the accused/respondent herein guilty for the offence punishable under Section 138 of the Negotiable Instruments Act and convicted and sentenced him to undergo six months simple imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo one month simple imprisonment. Challenging the same, the accused filed an appeal in Crl.A.No.138 of 2007 before the learned Sessions Judge, Kanniyakumari Division at Nagercoil. The Appellate Court also, vide Judgment dated 29.01.2010, confirmed the order of conviction and sentence passed by the trial Court.

3. Now, the present Criminal Revision Case is filed by the complainant on the ground that both the Courts below ought to have awarded compensation by invoking the provisions of Section 356(3) Cr.PC.



4. Learned counsel appearing for the respondent/accused submitted that since the accused was not in a position to pay the fine amount, he underwent the entire period of imprisonment imposed by the trial Court. Therefore, this Criminal Revision Case has become infructuous.

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5. In view of the submission that the accused already underwent the entire period of imprisonment imposed by the trial Court, this Criminal Revision Case is dismissed.

Sd/-

Deputy Registrar (Accounts)

// True Copy //

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Sub Assistant Registrar(CS)

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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

1.The Sessions Judge, Kaniyakumari at Nagercoil.

2. The Judicial Magistrate No.II, Nagercoil.

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SMA/06/08/2020/2P/3C