



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.R.C (MD)No.428 of 2016

K.S.Gopi

... Petitioner/Appellant/Accused No.5

Vs

S.Murugesan

... Respondent/Respondent/Complainant

PRAYER: Petition filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records of the learned Principal Sessions Judge, Karur, in Crl.A.No.18 of 2013 by Judgment dated 03.11.2015 confirming the conviction and sentence imposed by the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Karur in S.T.C.No.958 of 2011 by the Judgment dated 17.07.2013 and set aside the Judgments of the Courts below.

For Petitioner : Mr.D.Rameshkumar

For Respondent : Mr.S.Gokulraj

ORDER

Heard the learned counsel on either side.

2.The revision petitioner was prosecuted along with the four others for the offence under Section 138 of the Negotiable Instruments Act in S.T.C.No.958 of 2011 on the file of the Judicial Magistrate/Fast Track Court (Magisterial Level), Karur. The case ended in conviction vide Judgement dated 17.07.20213. Aggrieved by the same, separate appeals were filed. The petitioner filed Criminal Appeal No.18 of 2013 before the Principal Sessions Judge, Karur. Vide Judgment dated 03.11.2015, the appeal was dismissed. Questioning the same, this revision petition came to be filed.

3.Having regard to the evidence on record, the learned counsel appearing for the petitioner submitted that he does not challenge the finding of guilt and that, he wants some modification in the matter of sentence. The petitioner had suffered conviction and sentence of five months Simple Imprisonment and fine of Rs.5,000/-. The petitioner had already remitted a fine of Rs.5,000/-.



4.The petitioner's counsel points out that the cheque in question was issued in the name of the partnership firm namely Five Star Export. There are totally five partners. The cheque amount is for a sum of Rs.5,00,000/-.

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5.The petitioner states that he would pay a sum of Rs.1,25,000/- representing his share and also pay a sum of Rs.15,000/- towards cost. In lieu of payment of the said amount, the petitioner wants this Court to set aside the substantive sentence imposed on him.

6.Though the learned counsel appearing for the complainant would strongly oppose the said request made by the petitioner's counsel, interest of justice will be met by acceding to the request made by the learned counsel for the petitioner. The petitioner undertakes to take a demand draft for a sum of Rs.1,40,000/- favouring the complainant and the same will be handed over to the counsel for the complainant who is appearing before me. This shall be done within a period of eight weeks from the date of receipt of a copy of this order. If the petitioner fails to do so and does not abide by the undertaking now given before me, the sentence imposed on him by the Court below will stand automatically restored. If the petitioner pays the amount of Rs.1,40,000/- within the period mentioned above, even while conviction on him is confirmed, he need not undergo to any substantive sentence. The Judgment of the Court below is accordingly modified.

7.The Criminal Revision Petition is partly allowed. Registry is directed to dispatch all the original records to the trial Court immediately and without any delay. The learned trial Magistrate will take steps to ensure that the sentence imposed on the remaining accused is implemented.

Sd/-

Assistant Registrar(CS-II)

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/ /2020

Sub Assistant Registrar(CS)

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To

1.The Principal Sessions Judge, Karur.

2.The Judicial Magistrate, Fast Track Court at Magisterial Level,
Karur.

COPY TO

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

+1 CC to M/s.S. GOKULRAJ, Advocate (SR-19800[F] dated
12/10/2020)

Crl.R.C (MD)No.428 of 2016

sgs (CO)

TR(21.10.2020) 3P 6C