



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl. R.C.(MD)No.53 of 2017 and

CRL.M.P.(MD)No.582 of 2017

Muniammal

.. Petitioner/Appellant/
Accused

Vs.

T.Prakasam

.. Respondent/Respondent/
Complainant

Prayer : This Criminal Revision is filed under Sections 397 & 401 of Cr.P.C., to call for the records and set aside the Judgment made in C.A.No.58 of 2013 by the Principal Sessions Judge, Dindigul dated 02.06.2016 confirming the Judgment of conviction and sentence made in S.T.C.No.93 of 2013 by the Fast Track Court(Judicial Magistrate), Palani dated 27.08.2013.

For Petitioner : Mr.T.Leninkumar

For Respondent : Mr.A.Chandrakumar

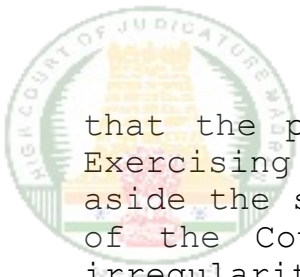
ORDER

Heard the learned counsel on either side.

2. The respondent T.Prakasam filed S.T.C.No.93 of 2013 on the file of the Fast Track Court(at Magisterial Level), Palani for the offence under Section 138 of the Negotiable Instruments Act against the petitioner herein.

3. The case ended in conviction and sentence. The same was confirmed in C.A.No.58 of 2013 on the file of the Principal Sessions Judge, Dindigul. Challenging the same, this criminal revision case came to be filed.

4. The case of the complainant is that on 17.02.2013, the accused borrowed a sum of Rs.1,50,000/- and towards discharge of the said liability issued Ex.P.1 cheque. The cheque was presented for collection on 22.03.2013. It was returned as dishonoured. The funds in the account of the accused were insufficient to honour the cheque. The complainant issued Ex.P.3 notice. Though the same was received, instead of complying with the demand set out in the notice, the accused is said to have issued Ex.P.5 reply dated 09.04.2013. Since the demand was not complied with, the complainant filed the aforesaid private complaint. The complainant examined himself as P.W.1 and Ex.P.1 to Ex.P.5 were marked. The accused examined himself as D.W.1. The Courts below have concurrently found



that the presumption raised against the accused was not rebutted. Exercising my revisional jurisdiction, I am not in a position to set aside the same. There is nothing on record to show that the findings of the Courts below are vitiated by any perversity or material irregularity. Therefore, the conviction imposed on the petitioner herein is confirmed. However, I am of the view that some modification is required in the matter of sentence.

5. The petitioner is a lady. She worked as Scavenger in Palani Municipality and retired from service. She is also a senior citizen. Therefore, the sentence of imprisonment imposed on the petitioner is modified as follows:-

i) The petitioner had already deposited a sum of Rs.60,000/- (Rupees Sixty Thousand only) at the time of obtaining suspension of sentence. The said amount can be withdrawn by the complainant without notice to the petitioner.

ii) The revision petitioner is directed to deposit the balance cheque amount of Rs.90,000/- (Rupees Ninty Thousand only) to the credit of S.T.C.No.93 of 2013 on the file of the Fast Track Judge (at Magisterial Level), Palani, within a period of four months from the date of receipt of a copy of this order.

iii) The complainant can withdraw the said amount without notice to the revision petitioner.

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

6. The petitioner is a pensioner. I make it clear that the outcome of this criminal revision will not have any bearing on her rights as a pensioner. In other words, the conviction against the petitioner will not lead to any action of disqualification on her part.

7. With this modification in the matter of sentence, this criminal revision stands partly allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD II)

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/ /2020

Sub Assistant Registrar (CS)



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To

1. The Principal Sessions Judge,
Dindigul.

2. The Fast Track Judge (Judicial Magistrate),
Palani.

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

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