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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Cr1.R.C.No.1267 of 2020

T.N.R.Arul

... Petitioner/Appellant/Accused

Vs.

Govindasamy

...Respondent/Respondent/Complainant

PRAYER: Criminal Revision Petition filed under 397 r/w 401 of Cr.P.C. to set aside the Judgment made in Cr1.A.No.67 of 2019, dated 01.10.2020, by the learned Principal District Judge, Namakkal, confirming the Judgment made in S.T.C.No.904 of 2015, dated 30.10.2019, by the learned Judicial Magistrate, Paramathy, convicting the petitioner herein for an offence under Section 138 of Negotiable Instruments Act, and sentencing him to undergo simple imprisonment of one month and to pay a compensation of Rs.4,00,000/- to the respondent/complaint under Section 357(3) of Cr.P.C. in default to undergo simple imprisonment for one month.

For Petitioner : Mr.V.Lakshmi Narayanan

For Respondent : No appearance

O R D E R

When the matter came up for hearing on 04.01.2021, this Court, suspended the sentence of imprisonment alone till

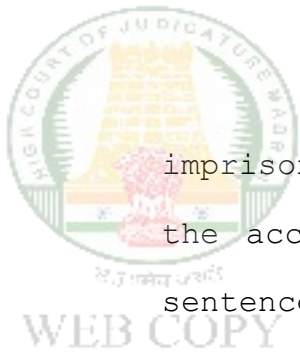


29.01.2021 on condition that the petitioner/appellant has to deposit the compensation amount of Rs.4,00,000/- on or before 29.01.2021 and also directed the petitioner to send a private notice to the respondent. In the order, dated 04.01.2021, this Court has also observed that in default in payment of compensation within stipulated period, the suspension of sentence granted in favour of the petitioner, shall automatically be vacated without any further reference to this Court.

2. Today when the matter is listed under the caption for final disposal, it is represented by the learned counsel for the petitioner that the order passed by this Court, dated 04.01.2021, has not been complied with and the private notice was also not served on the respondent.

3. Since the order passed by this Court dated 04.01.2021, has not been complied with, and the petitioner has filed this Revision, challenging the concurrent findings of the Courts below, the matter is taken up for final disposal.

3. The petitioner was found guilty for the offence under Section 138 of the Negotiable Instruments Act. He was sentenced to undergo simple imprisonment for one month and to pay a compensation of Rs.4,00,000/- in default, to undergo simple



imprisonment for a further period of one month. On Appeal by the accused, the Appellate Court, confirmed the conviction and sentence.

4. A careful reading of the materials available on record, the trial Court as well as appellate Court rightly appreciated the entire evidence and found guilt of the accused and imposed sentence. A bare perusal of the entire evidence of the petitioner / accused , it could be seen that the petitioner/ accused had admitted the execution of cheque and therefore, once the issuance of cheque is admitted, Section 138 of Negotiable Instruments Act would attract and the presumption under Section 118 and 139 of the Negotiable Instruments Act can be drawn and it is for the accused has to rebut the presumption that there is no legally enforceable debt and cheque has not been issued for legally enforceable debt. Though the statutory presumption is rebuttable one, the reading of the entire materials shows that the revision petitioner has not rebutted the presumption in the manner known to law.

5. On a reading of the entire materials, both the Courts below have appreciated the evidence in proper perspective, under the circumstances, this Court does not find any perversity in the judgment of the both Courts below. While exercising the reivisional jurisdiction, this Court need not sit in the



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armchair of the appellate Court and re-appreciate the entire evidence and while deciding revision case, this Court has to see whether any perversity is found in appreciating the evidence, whereas in this case, this Court does not find any perversity in the decision made by the Courts below. Therefore, this Court finds that there is no merit in the revision, and there is no ground to interfere with the judgment of the Courts below.

6. In the result, the Criminal Revision Petition is dismissed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal District Judge,
Namakkal.
2. The Judicial Magistrate,
Paramathy, Namakkal.
3. The Section Officer,
Criminal Section,
High Court, Madras.

Crl.R.C.No.1267 of 2020

SR-II(CO)
SU(19/07/2021)