



Crl.R.C.No.430 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYANL**

Crl.R.C.No.430 of 2018

and

Crl.M.P.Nos.5277 to 5279 of 2018

G.Babu

....

Petitioner

Vs

1. Kalidass

2. The State of Tamil Nadu,
Represented by the Public Prosecutor,
Erode.

....

Respondents

Prayer: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C, to set aside the judgment passed by the II Additional District and Sessions Judge, Erode in C.A.No.122 of 2015 dated 22.08.2016 confirming the judgement passed by the Judicial Magistrate/Fast Track Court-I, Erode in STC No.174 of 2013 dated 03.09.2015 and acquit the petitioner/accused and allow the above Crl.R.C as the charges against him are disproved.

For Petitioner : Mr.V.S.Kesavan

For R1 : Mr.A.Sundaravadhanan

For R2 : Mr.R.Murthi
Government Advocate (Crl.Side)



ORDER

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This Criminal Revision Case has been filed to set aside the Judgment dated 22.08.2016 made in C.A.No.122 of 2015 passed by the II Additional District and Sessions Judge, Erode, thereby confirming the Judgment dated 03.09.2015 made in S.T.C.No.174 of 2013 passed by the learned Judicial Magistrate/Fast Track Court – I, Erode, thereby convicted the petitioner for the offence punishable under Section 138 of Negotiable Instruments Act.

2. The Revision was listed on 28.03.2018, at the request of the learned counsel for the petitioner, it was adjourned for two weeks. Thereafter, the petitioner did not take any steps to list the revision for hearing. It is not even admitted and it is pending for past four years. Further, the petitioner failed to appear before the Trial Court on the date of Judgment and the Appellate Court confirming the conviction and sentence imposed by the Trial Court. The Appellate Court issued Non-Bailable Warrant, which is also pending against the petitioner herein.

3. A perusal of the records reveals that the petitioner is an accused in the complaint lodged by the respondent alleging that the petitioner borrowed a sum



of Rs.2,00,000/- for urgent need. In order to repay the said amount, he issued a cheque. When the cheque was presented for collection, it was returned for the reason 'Payment Stopped by the Drawer'. After causing statutory notice, the respondent lodged complaint for the offence punishable under Section 138 of Negotiable Instruments Act.

4. On the side of the respondent, he examined P.W.1 and marked Exs.P1 to P4. On the side of the petitioner, he examined D.Ws.1 to 4 and marked Exs.D1 and D2.

5. On perusal of the oral and documentary evidence, the Trial Court found the petitioner guilty and sentenced him to undergo simple imprisonment for a period of six months and to pay a fine of Rs.5,000/- in default to undergo 15 days simple imprisonment. Aggrieved by the same, the petitioner filed an appeal and the Appellate Court also dismissed the appeal and confirmed the order passed by the Trial Court. The petitioner had taken stand that the cheque was not issued for any legally enforceable debt. When the petitioner was working in the petrol bunk run by the respondent, the alleged cheque was misused and the same has been utilised by the respondent and to



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file a complaint. Though the petitioner had taken specific stand that it was misused and the same had been taken by the respondent, to substantiate the said contention the petitioner failed to prove by any evidence. In fact, after receipt of the legal notice, the petitioner failed to reply for the same. Even after receipt of the legal notice, the petitioner failed to lodge any complaint before the authority concerned. Therefore, the Courts below rightly held that the petitioner issued the cheque for legally enforceable debt and found the petitioner guilty.

6. In view of the above, this Court finds no infirmity or illegality in the order passed by the Courts below. Accordingly, this Criminal Revision Case stands dismissed. Consequently, connected miscellaneous petitions are closed.

26.09.2022

Internet:Yes
Index:Yes/No
Speaking/Non speaking order
Lpp

To

- 1.The II Additional District and Sessions Judge, Erode
2. The Judicial Magistrate, Fast Track Court No.I, Erode.

G.K.ILANTHIRAIYAN. J.



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