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Crl.R.C.No.486 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2022

CORAM

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

Crl.R.C.No.486 of 2018

M/s Perfect Weighing Systems
Represented by its Managing Director/Authorized Signatory
S.B.Chandrasekaran having
office at D 2, 3rd Street,
1st Cross Main Road, South Phase,
Sector-1 Ambattur Industrial Estate,
Chennai 600 058. ... Petitioner

Vs.

B.Parvathi
Proprietrix of M/s Sastha Steels,
Having office at No.730, M.T.H.Road
Munnupet, Padi, Chennai 600 050,
Represented by her Power of Attorney Holder
Mr.J.Bhagyanathan,
residing at No.221/156, Raja Street,
Padi, Chennai 600 050. ... Respondent

PRAYER: Criminal Revision case has been filed under Section 397 r/w
401 of Cr.P.C to set aside the Judgment passed in Crl.A.44 of 2017 on
filed before Principal District Judge Court at Tiruvallur on dated
18.12.2017 against STC No.19 of 2016 Judicial Magistrate, FTC,
Ambattur.



Crl.R.C.No.486 of 2018

For Petitioner : Mr.K.Sivakumar
For Respondent : Ms.E.Shalini
for Mr.M.L.Ramesh

ORDER

This Criminal Revision case has been filed as against the Judgment passed in Crl.A.No.44 of 2017 dated 18.12.2017 on the file of the Principal District Judge Court at Tiruvallur, thereby modifying the sentence imposed on the petitioner by the Judgment passed in STC No.19 of 2016 dated 09.03.2017 on the file of the Judicial Magistrate Fast Track Court (Magisterial Level), Ambattur, thereby convicting the petitioner for the offence punishable under Section 138 of Negotiable Instruments Act.

2. The petitioner is an accused in the complaint lodged by the respondent for the offence punishable under Section 138 of Negotiable Instruments Act. The crux of the complaint is that the complainant is doing business in selling steel material, products and pipes on wholesale and retail. The petitioner placed orders to purchase steel materials and accordingly all the materials were duly supplied to the petitioner under the Bill Nos.896, 948, 974 and 1023 to the tune of 16,18,396/-. The petitioner had paid the part amount i.e. 6,13,319/- and for the balance amount, he



Crl.R.C.No.486 of 2018

had sought some more time. After repeated request, in order to discharge his liability to pay the bill amount, the petitioner issued cheque for a sum of Rs.6,25,000/- and he had undertaken to pay the balance the due amount of Rs.3,80,077/-, within a period of three months. Accordingly, the said cheque was presented for collection and the same was returned dishonored for the reason “Insufficient Funds”. Immediately, after causing legal notice, the respondent lodged a complaint.

3. On the side of the respondent, he examined P.W.1 and marked Exs.P.1 to P.10. On the side of the petitioner, no one was examined and no document was marked. On a perusal of oral and documentary evidences, the Trial Court found the petitioner guilty for the offence punishable under Section 138 of Negotiable Instruments Act and sentenced him to undergo four months simple imprisonment and to pay a compensation to the tune of cheque amount, in default to undergo one month simple imprisonment. Aggrieved by the same, the petitioner preferred an appeal and the same was modified by reducing the sentence alone imposed on the petitioner by the Trial Court. Hence, this revision.



Crl.R.C.No.486 of 2018

WEB COPY

4. Heard, Mr.K.Sivakumar, learned counsel appearing for the petitioner and Ms.E.Shalini, learned counsel appearing for the respondent.

5. The learned counsel for the petitioner submitted that the petitioner had already paid a sum of Rs.4,50,000/- and he is ready and willing to pay the remaining amount, within a period of four weeks. The respondent also agreed to receive the cheque amount and on receipt of the same, the conviction and sentence imposed on the petitioner may be set aside.

6. Considering the above submission and the amicable settlement arrived between the parties, this Court is inclined to set aside the conviction and sentence imposed on the petitioner by the Courts below. Accordingly, the Judgment passed in Crl.A.No.44 of 2017 dated 18.12.2017 on the file of the Principal District Judge Court at Tiruvallur, thereby modifying the sentence imposed on the petitioner by the Judgment passed in STC No.19 of 2016 dated 09.03.2017 on the file of the Judicial



Crl.R.C.No.486 of 2018

Magistrate Fast Track Court (Magisterial Level), Ambattur are hereby set aside, on condition that the petitioner shall deposit the remaining cheque amount of Rs.1,50,000/- (Rupees One lakh Fifty Thousand only), on or before 23.12.2022, to the credit of STC No.19 of 2016 on the file of the Judicial Magistrate Fast Track Court (Magisterial Level), Ambattur, failing which, the conviction and sentence imposed on the petitioner by the first Appellate Court, shall stand restored. On such deposit, the respondent is permitted to withdraw the amount by way of filing appropriate application. The Trial Court is directed to permit the respondent to withdraw amount, without ordering any notice to the petitioner.

7. Accordingly, this Criminal Revision case stands allowed.

21.11.2022

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mn

G.K.ILANTHIRAIYAN, J

mn

To



Crl.R.C.No.486 of 2018

WEB COPY

1. The Principal District Judge Court at Tiruvallur.
2. The Judicial Magistrate Fast Track Court (Magisterial Level), Ambattur.

Crl.R.C.No.486 of 2018

21.11.2022