



Crl.R.C.No.702 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2022

CORAM

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

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Senthilraja

... Petitioner

Vs.

D.Kulandaisamy

... Respondent

PRAYER: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C to set aside the conviction imposed in the Judgment dated 05.04.2018 made in C.A.No.265 of 2017 on the file of the learned I Additional District and Sessions Judge, Erode confirming the conviction imposed in Judgment dated 04.08.2017 made in S.T.C.No.197 of 2014 on the file of the learned Judicial Magistrate (Fast Track Court) No.2, Erode by allowing this Criminal Revision Petition.

For Petitioner	:	Ms.P.Abinaya for Mr.M.Guruprasad
For Respondent	:	Mr.J.Ranjithkumar



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ORDER

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This Criminal Revision case has been filed as against the Judgment passed in C.A.No.265 of 2017 dated 05.04.2018 on the file of the learned I Additional District and Sessions Judge, Erode, thereby confirming the Judgment passed in S.T.C.No.197 of 2014 dated 04.08.2017 on the file of the learned Judicial Magistrate (Fast Track Court) No.2, Erode, 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 case of complainant is that on 27.11.2013, the petitioner borrowed a sum of Rs.1,50,000/- for his urgent business needs. In order to discharge the said liability, the petitioner issued a cheque and the same was presented for collection. However, it was returned dishonored for the reason "Funds Insufficient". Immediately, after causing legal notice, the respondent lodged a complaint.

3. On the side of the respondent, he examined P.W.1 and



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marked Exs.P.1 to P.7. On the side of the petitioner, he examined D.W.1 to D.W.4 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 one year simple imprisonment and to pay a sum of Rs.5,000/- as fine, in default to undergo three months simple imprisonment. Aggrieved by the same, the petitioner preferred an appeal and the same was dismissed, confirming the order passed by the Trial Court. Hence, this revision.

4. The learned counsel for the petitioner would submit that as directed by this Court at the time of suspending the sentence, the petitioner had deposited a sum of Rs.50,000/- to the credit of the Trial Court and he is ready and willing to deposit the balance amount, within a period of four weeks.

5. Heard, Ms.P.Abinaya, learned counsel appearing for the



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petitioner and Mr.J.Ranjithkumar, learned counsel appearing for the respondent.

6. In view of the above submission made by the learned counsel for the petitioner, this Court is inclined to set aside the conviction and sentence imposed on the petitioner by the Courts below. Accordingly, the Judgment passed in C.A.No.265 of 2017 dated 05.04.2018 on the file of the learned I Additional District and Sessions Judge, Erode, thereby confirming the Judgment passed in S.T.C.No.197 of 2014 dated 04.08.2017 on the file of the learned Judicial Magistrate (Fast Track Court) No.2, Erode are hereby set aside, on condition that the petitioner shall deposit the remaining cheque amount, on or before 23.12.2022 before the Trial Court, failing which, the conviction and sentence imposed on the petitioner by the Courts below, 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 the amount, without ordering any notice to the petitioner.



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7. Accordingly, this Criminal Revision case stands allowed.

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Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

mn

To

1. The I Additional District and Sessions Judge, Erode.

2. The Judicial Magistrate (Fast Track Court) No.2, Erode.

G.K.ILANTHIRAIYAN, J

mn



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