



Crl.R.C.Nos.897 & 898 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.11.2022

CORAM:

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

Crl.R.C.Nos.897 & 898 of 2018

G.Subramaniam .... Petitioner in both Crl.R.Cs

Vs

Tamilselvan  
rep. by power of attorney  
A.Sekar .... Respondent in both Crl.R.Cs

**COMMON PRAYER:** Criminal Revision Case filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to set aside the order dated 07.06.2018 made in Crl.Appeal Nos.159 & 160 of 2010 passed by the learned III Additional Sessions Judge, Salem, confirming the order dated 12.10.2010 passed in C.C.Nos. 291 & 292 of 2001 on the file of the Judicial Magistrate No.IV, Salem and the above Criminal Revision may be allowed.

For Petitioner : Mr.M.Balasubramanian

For Respondent : No appearance

**ORDER**

These Criminal Revision Cases have been filed as against the Judgement dated 07.06.2018 passed in Crl.A.Nos.159 & 160 of 2010 on the file of the III Additional Sessions Judge, Salem, thereby confirming



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the order dated 12.10.2010 passed in C.C.Nos. 291 & 292 of 2001 on the file of the Judicial Magistrate No.IV, Salem, thereby convicted the petitioner for the offence punishable under Section 138 of Negotiable Instrument Act.

2. The case of the respondent is that the accused were running a partnership firm and they are liable to pay a sum of Rs.24,46,475/- to the respondent. In order to settle the said dues, the first accused issued cheques for a sum of Rs.4,40,859/- and Rs.5,40,847/- on 30.11.2000. The second accused issued cheques for a sum of Rs.4,40,859/- and Rs.5,40,847/- on 30.11.2000. When, all the cheques were presented for collection, the same were returned dishonoured for the reason 'funds insufficient'. After causing statutory notice, the respondent lodged a complaint.

3. On the side of the respondent, P.Ws.1 to 3 were examined and marked Exs.P1 to P23. On the side of the accused no one was examined and marked Exs.D1 to D8.

4. On perusal of the oral and documentary evidence, the Trial Court found the first and second respondent therein guilty for the offence punishable under Section 138 of Negotiable Instrument Act and



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sentenced them to undergo one year simple imprisonment and to pay a fine of Rs.5,000/- each in default to undergo two months simple imprisonment. Aggrieved by the same, they preferred appeals and the same were dismissed and the order of the Trial Court was confirmed. Hence, this revision.

5. Pending revision, while suspending the sentence, this Court ordered to deposit a sum of Rs.6,00,000/-. Accordingly, the petitioner has duly complied with the condition imposed by this Court. Thereafter, there was a negotiation between them. At that point, though the defacto complainant was ready and willing to receive a further sum of Rs.5,00,000/- and accordingly, the petitioner had taken Demand Draft for a sum of Rs.5,00,000/-. However, now the respondent does not come forward for any settlement.

6. A perusal of the records reveals that in C.C.No.291 of 2001, there are totally eight accused, in which the petitioner is arrayed as A4. In C.C.No.292 of 2001, there are totally five accused, in which the petitioner is arrayed as A4. In both the revisions, this Court directed the petitioner to deposit a sum of Rs.6,00,000/- and the petitioner also deposited the said amount to the credit of the Trial Court. The fifth



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accused already preferred revision, in both the cases, he deposited a sum of Rs.11,00,000/-. Insofar as the petitioner is concerned, already the petitioner had deposited a sum of Rs.11,00,000/-, he had taken a Demand Draft for a sum of Rs.6,00,000/-. Therefore, totally a sum of Rs.17,00,000/- had already been deposited and today the petitioner came with a sum of Rs.5,00,000/-.

7. Though notice has been served on the respondent and his name is printed in the cause list, there is no representation for the respondent either in person or through counsel.

8. It is seen from the records, the total cheque amount is Rs.22,96,475/-. So far both the accused viz., 4<sup>th</sup> and 5<sup>th</sup> accused had deposited a sum of Rs.22,00,000/- including the present Demand Draft for a sum of Rs.5,00,000/-.

9. In view of the above facts and circumstances of the case, the petitioner is directed to deposit a sum of Rs.5,96,475/- to the credit of the Trial Court on or before 12.12.2022. On such deposit, the conviction and sentence imposed in C.C.Nos. 291 & 292 of 2001 on the file of the Judicial Magistrate No.IV, Salem, is hereby set aside. It is made clear that if the petitioner failed to deposit the said amount, the conviction and



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sentence imposed by the Courts below shall stand automatically restored.

It is made clear that on such deposit, the respondent is permitted to withdraw the entire amount which was deposited by the accused persons by filing appropriate application and the Trial Court shall permit the respondent to withdraw the said amount, without ordering notice to the petitioner.

10. In the result, this Criminal Revision Case stands allowed.

28.11.2022

Index : Yes/No  
Internet : Yes  
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**Note : Issue order copy on 29.11.2022**

To

1. The III Additional Sessions Judge,  
Salem.

2. The Judicial Magistrate No.IV,  
Salem.

**G.K.ILANTHIRAIYAN, J.**



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