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Crl.R.C.No.900 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2022

CORAM:

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

CRL.R.C.No.900 of 2018

B.Latha

... Petitioner

Vs.

T.Rajaram

... Respondent

Prayer: The Criminal Revision filed under Section 397 r/w 401 of Code of Criminal Procedure to set aside the order dated 12.07.2018 passed in C.A.No.124 of 2016 on the file of the III Additional District and Sessions Judge, Tiruppur, Dharapuram, related with order dated 07.11.2016 passed in C.C.No.135 of 2013 on the file of the learned Judicial Magistrate Court No.I, Udumalpet.

For Petitioner : Mr.M.Balaji

For Respondent : Mr.M.N.Balakrishnan

ORDER

This petition has been filed to to set aside the order dated 12.07.2018 passed in C.A.No.124 of 2016 on the file of the III Additional District and Sessions Judge, Tiruppur, Dharapuram, related with order dated 07.11.2016



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passed in C.C.No.135 of 2013 on the file of the learned Judicial Magistrate

WEB COURT No.I, Udumalpet.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

3. The Criminal Revision Petition has been filed arising out of the judgment passed in C.A.No.124 of 2016 dated 12.07.2018 on the file of the III Additional District and Sessions Judge, Tiruppur, Tharapuram, thereby reversed the finding of the trial Court order dated 07.11.2016 passed in C.C.No.135 of 2013, thereby acquitted the petitioner for the offence under Section 138 of Negotiable Instruments Act.

4. This Court, while suspending the sentence imposed by the first Appellate Court, directed the petitioner to deposit the entire cheque amount to the credit of C.C.No.135 of 2013, within a period of two weeks. Accordingly, the petitioner had deposited the entire cheque amount of Rs.1,90,000/- to the credit of C.C.No.135 of 2013, on the file of the Judicial Magistrate No.I, Udumalpet, on 20.09.2018 itself.



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5. Now, the learned counsel for the petitioner would submit that he has no objection to withdraw the cheque amount deposited by the respondent herein and the respondent also has no objection to receive the said amount and set aside the sentence imposed by the first Appellate Court.

6. In this regard, it is relevant to rely upon the full bench Judgment of this Court reported in *2020 (4) CTC 1*, in the case of ***“K.Rajalingam Vs R.Suganthalakshmi” and batch***, held that, in the cases, where, the Sessions Court has reversed the order of acquittal passed by the Magistrate and the same has been challenged by the accused before this Court by way of revision petition and the same is pending, the same should be treated as an appeal pending before this Court against the order of acquittal passed by the Magistrate, by disregarding the order passed by the Sessions Court. In all those cases, the complainant must file a transpose petition and the Registry must convert the same as Criminal Appeals by showing the complainant as the Appellant and the accused as the respondent. The Memorandum of grounds of Criminal Appeal filed before the Sessions Court will be considered as the memorandum of grounds of appeal in the renumbered Criminal Appeal.



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7. In view of the above, the order of conviction dated 12.07.2018 in C.A.No.124 of 2016 on the file of the III Additional District and Sessions Judge, Tiruppur, Dharapuram is hereby set aside. The respondent is permitted to withdraw the amount deposited to the credit of C.C.No.135 of 2013, on the file of the Judicial Magistrate Court No.I, Udumalpet, by filing an appropriate application.

8. Accordingly, the criminal revision petition stands allowed.

10.10.2022

Index : Yes / No
Speaking / Non Speaking order
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To

- 1.The III Additional District and Sessions Judge,
Tiruppur, Dharapuram.
- 2.The Judicial Magistrate Court No.I,
Udumalpet.



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G.K.ILANTHIRAIYAN, J.
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