



Crl.R.C.No.580 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.No.580 of 2019

K.Raja,
S/o.D.Kannan

... Petitioner

Versus

J.Bharat Karunanithi,
S/o.R.Jawahar

... Respondent

Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, to call for the records in Criminal Appeal No.38 of 2017 on the file of learned I Additional District and Session, Cuddalore and set aside the order dated 29.04.2019 confirming the conviction and the sentence passed by the learned Judicial Magistrate No.1, Panruti in S.T.C.No.716 of 2013 by a judgment dated 06.04.2017 by allowing this revision.

For Petitioner : Mr.D.Dayalan
For Respondent : Mr.S.Muthaiah

ORDER

This Revision is filed by the petitioner, aggrieved by the order of the learned Judicial Magistrate No.I, Panruti, in S.T.C.No.716 of 2013, in and by which, the petitioner was convicted for the offence under Section 138 of the

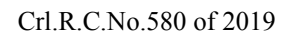


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Negotiable Instruments Act and sentencing him to undergo simple imprisonment for a period of six months and directed to pay a cheque amount of Rs.1,00,000/- as compensation to the complainant within a period of two months there from and the judgment of the learned I Additional District and Sessions Judge, Cuddalore in Criminal Appeal No.38 of 2017 thereby dismissing the appeal filed by the petitioner and confirming the conviction and sentence imposed against the accused.

2.When the matter came up for hearing, the learned Counsel appearing on behalf of the petitioner submitted that, since in this case, the petitioner had already deposited the cheque amount to the credit of S.T.C.No.716 of 2013, the same may be taken into account and the offence may be compounded.

3.The learned Counsel appearing for the respondent/complainant would submit that complainant is unable to compound the case by accepting the payment of Rs.1,00,000/- alone, because there are two other cases as against the petitioner, in which, the petitioner offered to settle the cases and recording the settlement, Lok Adalat closed those cases. But, however, the petitioner, thereafter, did not pay the amount as directed by the Lok Adalat. Therefore, he would pray that this Court can exercise its suo-motu powers and enhance the



petitioner.

on either sides and perused the material records of the case.

this Court cannot enhance fine or compensation.

that the case of the complainant is that he has advanced loan of Rs.1,00,000/-



by way of hand loan and in return from of, the accused has issued a cheque.

The accused, even though had taken a stand that he has not borrowed the said amount due under the cheque, however, was not successful in rebutting the presumption to the level of preponderance of probability, the Trial Court as well as the first Appellate Court found the accused guilty by virtue of Section 138 of Negotiable Instruments Act and imposed the sentence as aforesaid. Therefore, I am of the view that the conviction as against the accused cannot be up turned in this revision.

7. But, however, considering the question of sentence, since the accused has already deposited the cheque amount and considering the over all facts and circumstances of the case, I am inclined to modify the sentence as follows :-

(i) the accused shall pay a total fine of Rs.1,05,000/-, of the said amount, already a sum of Rs.1,00,000/- has been paid by the accused, therefore, the accused shall pay the balance sum of Rs.5,000/- within a period of two weeks from the date of receipt of a copy of this order to the credit of S.T.C.No.716 of 2013 on the file of the learned Judicial Magistrate No.I, Panruti;

(ii) in default of the payment of the said additional sum of Rs.5,000/-, the accused shall undergo simple imprisonment for a period of three (3) months;



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(iii) the amount of Rs.1,00,000/- already deposited by the accused shall be paid to the complainant on production of the copy of the order by verification without insisting upon any formal application.

8. With the above terms, the Criminal Revision Case is disposed of.

05.07.2022

Index : yes/no
Speaking/Non-speaking order
sp

To

1. The I Additional District and Sessions Court, Cuddalore.
2. The Judicial Magistrate No.I, Panruti.



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D.BHARATHA CHAKRAVARTHY, J.,

sp

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