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Crl.R.C.No.779 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2022

CORAM:

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

Crl.R.C.No.779 of 2019

N.R.Rajan

....

Petitioner

Vs

1. K.Murali

2. State rep. by its
Public Prosecutor of Nilgiris District,
Udhagamandalam.

....

Respondent

Prayer: Criminal Revision Case filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to set aside the Judgment dated 02.09.2016 passed in C.A.No.21 of 2014 on the file of the Sessions Judge of Nilgiris at Udhagamandalam, confirming the Judgment dated 05.08.2014 passed in C.C.No.183 of 2013 on the file of the Fast Track Judicial Magistrate at Coonoor.

For Petitioner

: Mr.A.Bobbli

For R1

: Mr.K.V.Sridharan

For R2

: Mr.A.Gopinath
Government Advocate (Crl.Side)



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ORDER

This Criminal Revision has been filed as against the Judgment dated 02.09.2016 passed in C.A.No.21 of 2014 on the file of the Sessions Judge, Nilgiris at Udhagamandalam, thereby confirming the Judgment dated 05.08.2014 passed in C.C.No.183 of 2013 on the file of the Fast Track Judicial Magistrate, Coonoor, thereby convicted the petitioner for the offence punishable under Section 138 of Negotiable Instrument Act.

2. The petitioner is an accused in the complaint lodged by the respondent for the offence punishable under Section 138 of Negotiable Instrument Act. The case of the respondent is that on 21.12.2012, the petitioner borrowed a sum of Rs.6,00,000/- for expansion of his business. On the date of borrowal, the petitioner issued post dated cheque. Thereafter, on his instruction, the said cheque was presented for collection and the same was returned dishonoured for the reason 'funds insufficient'. After causing statutory notice, the respondent lodged a complaint.

3. On the side of the respondent, P.W.1 was examined and marked Exs.P1 to P4. On the side of the petitioner no one was examined and no document was marked.

4. On perusal of the oral and documentary evidence, the Trial



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Court found the petitioner guilty for the offence punishable under Section 138 of Negotiable Instrument Act and he was sentenced to undergo one year simple imprisonment and to pay a fine of Rs.2,000/- in default, to undergo one year simple imprisonment. Aggrieved by the same, the petitioner preferred an appeal and the same was dismissed and the order of the Trial Court was confirmed. Hence, this revision.

5. The learned counsel for the petitioner would submit that while condoning the delay in filing this revision, this Court directed the petitioner to pay 50% of the cheque amount in favour of the respondent. Accordingly, the petitioner paid a sum of Rs.3,00,000/- and he is also ready and willing to pay the remaining cheque amount within a period of four weeks.

6. The learned counsel appearing for the respondent would submit that the respondent is ready and willing to receive the balance cheque amount.

7. In view of the submission made by both the counsel, the



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Judgment dated 02.09.2016 passed in C.A.No.21 of 2014 on the file of the Sessions Judge of Nilgiris at Udhagamandalam and the Judgment dated 05.08.2014 passed in C.C.No.183 of 2013 on the file of the Fast Track Judicial Magistrate, Coonoor, are hereby set aside on condition that the petitioner shall pay the remaining cheque amount i.e., Rs.3,00,000/- directly to the respondent by way of Demand Draft on or before 29.12.2022. If the petitioner fails to comply with the condition imposed by this Court, the conviction and sentence imposed by the Trial Court shall stand automatically restored.

8. In the result, this Criminal Revision stands allowed.

01.12.2022

Index : Yes/No
Internet : Yes
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Note : Issue order copy on 05.12.2022



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1. The Sessions Judge,
Nilgiris at Udhagamandalam.
2. The Fast Track Judicial Magistrate,
Coonoor.



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G.K.ILANTHIRAIYAN, J.

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