



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2022

CORAM:

THE HON'BLE DR.JUSTICE G.JAYACHANDRAN

CRIMINAL REVISION CASE NO.947 OF 2017

Shanthi,
Proprietrix,
Shri Sivakami Printers,
New No.81-A, Old No.37/3,
Vasantha Mill Road,
Singanallur,
Coimbatore - 641 005.

... Petitioner/Appellant/Accused

/versus/

K.R.Vellaisamy,
S/o.Karuppiah
D.No.167, Annaiyankadu
Road Extension,
Singanallur,
Coimbatore - 641 005.

... Respondent/Respondent/Complainant

Prayer:- Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code, to set aside against the judgment dated 07.04.2017 passed in C.A.No.90 of 2016 on the file of the III Additional District and Sessions Judge, Coimbatore, confirming the judgment dated 17.06.2016 passed in C.C.No.380 of 2011, on the file of the Judicial Magistrate, Fast Track Court at Magisterial Level-I, Coimbatore, convicting the petitioner under Section 138 of the Negotiable Instruments Act and sentencing her to undergo simple imprisonment for six months and to pay a sum of Rs.1,00 000/- as compensation under Section 357 (3) of Code of Criminal Procedure within two months from the date of judgment, by allowing this criminal Revision case and to grant in such other relief or reliefs that this Honourable Court may deem it.

For Petitioner : Mr.M.Mathan kumar, for
Ms.Elizabeth Ravi

For Respondent : Mr.D.Gopi Krishnan



O R D E R

The revision petitioner herein found guilty for offence under Section 138 of Negotiable Instrument Act before the trial Court for C.C.No.380/2011. He was sentenced to undergo Simple Imprisonment for the period of 6 months and pay compensation of Rs.1,00,000/- under Section 357(3) of Cr.P.C, which is payable within 2 months from the date of judgment. No fine was imposed.

2. Aggrieved by that the revision petitioner filed appeal before the III Additional District and Sessions Judge, Coimbatore in C.A.No.90 of 2016, same came to be dismissed on 07.04.2017.

3. Against the concurrent finding, the present revision petition is filed on the ground that the Courts below erred in appreciating the evidence and erroneously shifted the burden of proof to the capacity of the complainant to lend money. It is contended that the alleged execution of pro-note for Rs.2,50,000/- in favour of the complainant has not been established by the complainant and the cheque for Rs.1,00,000/- drawn in Catholic Syrian Bank, Kamaraj Road, Singanallur, Coimbatore, dated 15.04.2010 is not issued towards discharge of the any legally enforceable debt. This fact not been properly appreciated by the Courts below.

4. The facts established by the complainant before the Courts below through evidence and witnesses indicates that the revision petitioner herein has executed the pro-note dated 25.12.2008 for sum of Rs.2,50,000/- and the scribe to the pro-note has been examined to prove that the same was executed by the revision petitioner. To discharge the said debt, the subject cheque for Rs.1,00,000/- has been issued and the same got bounced on presentation with an endorsement of the bank stating "funds insufficient".

5. Therefore, on considering the evidence let in by the complainant and on appreciation of the oral evidence let in by both sides, the Courts below had come to conclusion that the accused/revision petitioner had issued the subject cheque to partially discharge the debt arising out of the pro-note marked as Ex.P.1.

6. As far as the facts of the case is concerned, the complainant has proved the case against this accused/revision petitioner without any pale of doubt. Hence, the trial Court as well as the 1st Appellate Court has held against the accused/revision petitioner. However, pending appeal, it is reported that, the revision petitioner died and the Learned



Counsel for the petitioner has filed memo to that effect, which was received by the Registry on 18.02.2022.

7. The Learned Counsel appearing for the revision petitioner would submit that the letter sent to the revision petitioner returned with postal endorsement as "deceased" and there is no instruction from any of the legal heirs of the deceased.

8. The Learned Counsel for the complainant/respondent states that they have no information about the death of revision petitioner and in fact, the Learned Senior Counsel on record is also no more.

9. Since being a criminal complaint and the accused found guilty is no more, the proceedings gets abated. However, the right of claiming the compensation amount survives and it is open to the complainant to take appropriate legal remedies for recovery of the compensation amount from the estate of the deceased. Accordingly, Criminal Revision Petition is dismissed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

bsm

To

1. The III Additional District and Sessions Judge,
Coimbatore.
2. The Judicial Magistrate,
Fast Track Court No.I,
Coimbatore.
3. The Chief Judicial Magistrate,
Coimbatore.

Cr1.R.C.No.947 of 2017

SKM(CO)
RLP(14/06/2022)