



Crl.R.C.No.1119 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2022

CORAM

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

Crl.R.C.No.1119 of 2018
and Crl.M.P.No.13061 of 2018

A.M.Thirunavukarasu

... Petitioner

Vs.

A.P.Venkatachalam

... Respondent

PRAYER: Criminal Revision case filed under Section 397 r/w 401 of Cr.P.C to set-aside the judgment dated 18.08.2018 made in C.A.No.51 of 2017 on the file of the learned IInd Additional District and Sessions Judge, Salem, confirming the Judgment dated 18.04.2017 made in S.T.C.No.2246 of 2013 on the file of the Judicial Magistrate No.I.Sankagiri by allowing the present Criminal Revision Case.

For Petitioner : Mr.Kumarasamy.B

For Respondent : Mr.R.M.Venkatesh



Crl.R.C.No.1119 of 2018

ORDER

WEB COPY

This Criminal Revision case is directed as against the judgment passed in C.A.No.51 of 2017 dated 18.08.2018, on the file of the learned IInd Additional District and Sessions Judge, Salem, thereby confirmed the Judgment passed in S.T.C.No.2246 of 2013 dated 18.04.2017, on the file of the Judicial Magistrate No.I. Sankagiri, thereby convicted the petitioner for the offence punishable under Section 138 of Negotiable Instruments Act.

2. The petitioner is an accused in the complaint lodged by the respondent for the offence punishable under Section 138 of Negotiable Instruments Act. The case of the respondent is that the petitioner approached him and borrowed a sum of Rs.6,00,000/- on 09.07.2013 for his urgent business and family expenses. He agreed to repay the said amount and he also issued post dated cheque, on the date of borrowal, for a sum of Rs.6,00,000/-. On instructions, it was presented for collection. However, it was returned dishonoured for the reason “Insufficient funds”. Therefore, the respondent caused statutory notice and lodged a complaint.

3. On the side of the respondent, he examined P.W.1 and P.W.2



Crl.R.C.No.1119 of 2018

WEB COPY

and marked Exs.P1 to P5. On the side of the petitioner, he was examined as D.W.1 and marked Exs.D1 and D2. On a perusal of oral and documentary evidence, the Trial Court found the petitioner guilty for the offence punishable under Section 138 of Negotiable Instruments Act and sentenced him to undergo six months simple imprisonment and also awarded compensation of the cheque amount. Aggrieved by the same, the petitioner preferred an appeal and the same was dismissed confirming the order passed by the Trial Court.

4. The learned counsel for the petitioner would submit that the petitioner failed to comply with the condition imposed by this Court, while suspending the sentence. However, he is ready and willing to settle the entire cheque amount, within a period of four weeks. If the petitioner failed to settle the amount, he may be sentenced for a period of three months.



Crl.R.C.No.1119 of 2018

5. Heard both sides.

6. Considering the above submission made by the learned counsel for the petitioner, the conviction imposed on the petitioner by the Trial Court under Section 138 of Negotiable Instruments Act, is hereby confirmed. However, the sentence alone is modified to the effect that the petitioner shall pay a sum of Rs.7,00,000/-, directly to the respondent by way of Demand Draft, within a period of six weeks from today, i.e. 28.10.2022, failing which, the sentence imposed on the petitioner by the Courts below shall stand automatically restored.

7. Accordingly, this Criminal Revision case is partly allowed. Consequently, connected Miscellaneous petition is closed.

28.10.2022

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mn

G.K.ILANTHIRAIYAN, J



WEB COPY



Crl.R.C.No.1119 of 2018

mn

To

1. The IInd Additional District and Sessions Judge, Salem.
2. The Judicial Magistrate Court-I, Sankagiri.

Crl.R.C.No.1119 of 2018
and Crl.M.P.No.13061 of 2018

28.10.2022