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Crl.R.C.No.1383 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2022

CORAM:

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

CRL.R.C.No.1383 of 2018

Sri Badugu Nagendra Rao

... Petitioner

Vs.

Mottupalli Ramakrishnan

... Respondent

Prayer: The Criminal Revision filed under Section 397 r/w 401 of Code of Criminal Procedure to set aside the order dated 17.01.2018 passed in C.A.No.8 of 2016 on the file of the II Additional Sessions Judge, Puducherry, confirming the sentence dated 19.02.2016 passed in S.T.C.No.116 of 2015 on the file of the learned Judicial Magistrate, Yanam, Puducherry.

For Petitioner : Mr.V.Chinnasami

For Respondent : Mr.M.Ravi

ORDER

This petition has been filed to set aside the order dated 17.01.2018 passed in C.A.No.8 of 2016 on the file of the II Additional Sessions Judge, Puducherry, confirming the sentence dated 19.02.2016 passed in S.T.C.No.116 of 2015 on the file of the learned Judicial Magistrate, Yanam, Puducherry.



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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 is arising out of the judgment passed in C.A.No.8 of 2016 dated 17.01.2018 on the file of the II Additional Sessions Judge, Puducherry, thereby confirmed the sentence passed in S.T.C.No.116 of 2015 dated 19.02.2016 on the file of the Judicial Magistrate, Yanam, Puducherry, for the offence under Section 138 of Negotiable Instruments Act.

4. The petitioner is an accused. The complaint was lodged by the respondent for the offence under Section 138 of NI Act. Further, the case of the respondent is that the petitioner had borrowed a sum of Rs.1,00,000/- and in order to discharge the said liability, he had issued a cheque. When it was presented for collection, it was returned dishonoured for the reason "funds insufficient". After causing statutory notice to the petitioner, the respondent lodged a complaint.

5. On the side of the respondent PW1 was examined and Exs.P1 to P8 were marked, on the side of the petitioner DW1 was examined and no document was marked as Exhibits.



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6. On perusal of oral and documentary evidence, the Trial Court sentenced the petitioner to undergo rigorous imprisonment for one year and also awarded a compensation of Rs.1,00,000/-. Aggrieved by the same, the petitioner preferred an appeal and the same was dismissed by the trial Court.

7. The learned counsel for the petitioner would submit that even at the time of filing appeal, the petitioner had deposited the entire cheque amount of Rs.1,00,000/- before the Appellate Court and again at the time of suspending the sentence imposed by the trial Court, as directed by this Court, the petitioner deposited another sum of Rs.25,000/- as such, the petitioner had totally deposited a sum of Rs.1,25,000/- which is lying to the credit of STC.No.116 of 2015, on the file of the Judicial Magistrate, Yanam, Puducherry. That apart, the petitioner was remanded to judicial custody and he was underwent two months imprisonment, before sentence was suspended.

8. In view of the above, the Judgment dated 17.01.2018 passed by the learned II Additional Sessions Judge, Puducherry in Criminal Appeal No.8 of 2016 confirming the Judgment dated 19.02.2016 in STC.No.116 of 2015 passed by the learned Judicial Magistrate, Yanam, Puducherry, is hereby set



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aside. The respondent is permitted to withdraw the entire amount of

Rs.1,25,000/- deposited to the credit of STC.No.116 of 2015, on the file of the

Judicial Magistrate, Yanam, Puducherry, by filing an appropriate application.

9. Accordingly, the criminal revision petition stands allowed.

11.10.2022

Index : Yes / No

Speaking / Non Speaking order

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To

1.The II Additional Sessions Judge,
Puducherry.

2.The Judicial Magistrate,
Yanam, Puducherry.



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G.K.ILANTHIRAIYAN, J.
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