



Crl.R.C.No.1428 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2022

CORAM:

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

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Jegadam Meera Saheb

... Petitioner

Vs.

Palepu Satyanarayana

... Respondent

PRAYER: Criminal Revision Petition is filed under Section 397 and 401 of the Code of Criminal Procedure, to prefer memorandum of Criminal Revision Petition as against the Judgement passed by the learned II Additional Sessions Judge, Puducherry in C.A.No.7 of 2016 dated 17.01.2018, confirming the sentence passed in S.T.C.No.1355 of 2011, dated 18.02.2016 by the learned Judicial Magistrate, Yanam, Puducherry and seeks to set aside the same.

For Petitioner : Mr.V.Chinnasami

For Respondent : Mr.M.Ravi

ORDER

This Criminal Revision Petition is filed challenging the judgment passed in C.A.No.7 of 2016 dated 17.01.2018 on the file of the II Additional Sessions Judge, Puducherry, confirming conviction and



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sentence passed in S.T.C.No.1355 of 2011, dated 18.02.2016 on the file of the learned Judicial Magistrate, Yanam, Puducherry.

2. The petitioner is an accused in the complaint lodged by the respondent herein for the offence punishable under Section 138 of Negotiable Instruments Act, 1881 (in short "NI Act" hereinafter). The case of the respondent is that on 21.07.2011, the petitioner issued a cheque towards discharge of debt incurred on 16.12.2010. As such, the cheque was presented for collection, however, the same was returned with an endorsement as "Funds Insufficient". After causing notice on the petitioner as contemplated under Section 138 of NI Act, the respondent lodged the complaint.

3. On the side of the respondent, he was examined as P.W.1 and marked Ex.P.1 to Ex.P.10. On the side of the petitioner, no one was examined and no documents were marked. On a perusal of oral and documentary evidences, the trial Court found the petitioner guilty and convicted him for the offence punishable under Section 138 of NI Act



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and sentenced him to undergo one year rigorous imprisonment and also awarded compensation of Rs.3,00,000/- being twice the cheque amount. Aggrieved by the same, the petitioner preferred appeal in Crl.A.No.7 of 2016 before the II Additional Sessions Judge, Puducherry and the same was dismissed on 17.01.2018, confirming the conviction passed by the trial Court.

4. The learned counsel for the petitioner would submit that this Court, at the time of suspending the sentence, directed the petitioner deposit the entire cheque amount to the tune of Rs.1,50,000/- before the trial Court to the credit of S.T.C.No.1355 of 2011. Thereby, the petitioner deposited the said amount to the credit of the said Court. That apart, the first appellant Court, at the time of suspending the sentence, directed the petitioner to deposit a sum of Rs.25,000/- to the credit of the trial Court. Pursuant to the said order, the condition was duly complied with and therefore, a sum of Rs.1,75,000/- in total is lying in the credit of S.T.C.No.1355 of 2011 on the file of the Judicial Magistrate, Yanam, Puducherry. Hence, he prays for allowing the petition.



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5. In view of the above, this Court is inclined to set aside the conviction and sentence imposed by the Courts below in C.A.No.7 of 2016 and S.T.C.No.1355 of 2011 on the condition that the petitioner shall deposit another sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) towards interest to the credit of S.T.C.No.1355 of 2011 on the file of the Judicial Magistrate, Yanam, Puducherry on or before 28.11.2022, failing which, the conviction and sentence imposed by the Courts below stands automatically restored. On such deposit, the respondent is permitted to withdraw the amount by way of filing proper application before the trial Court.

6. Accordingly, this Criminal Revision Petition stands allowed.

11.10.2022

Index: Yes/No
Speaking/Non-speaking order
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Note to office: Issue order copy on or before 18.11.2022



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To

1. The II Additional Sessions Judge, Puducherry
2. The Judicial Magistrate, Yanam, Puducherry
3. The Public Prosecutor,
Puducherry.



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G.K.ILANTHIRAIYAN, J.,

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