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Crl.R.C.No.1372 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2022

CORAM:

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

Crl.R.C.No.1372 of 2018

Andappan

... Petitioner

Vs.

M.Kothandapani

... Respondent

Prayer: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C, to set aside the conviction and sentence passed against the petitioner on 05.09.2018 in C.A.No.57 of 2016 on the file of the learned Additional District Judge (FTC) Villupuram confirming the order of the learned Judicial Magistrate No.1, Villupuram made in C.C.No.50 of 2011 dated 28.11.2016 and allow the Criminal Revision Petition and acquit the petitioner.

For Petitioner : Mr.S.Saravana Kumar
For Respondent : Mr.K.Kumar

ORDER

This Criminal Revision case has been filed as against the Judgment passed in C.A.No.57 of 2016, dated 05.09.2018, on the file of the learned Additional District Judge (FTC) Villupuram, thereby confirmed the order passed in C.C.No.50 of 2011 dated 28.11.2016, on file of the Judicial Magistrate No.1,



Crl.R.C.No.1372 of 2018

Villupuram, 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 prosecution is that on 04.09.2004, the petitioner borrowed a sum of Rs.1,90,000/- from the respondent for his business purpose. In order to discharge the said debt, the petitioner issued a cheque of a sum of Rs.1,90,000/-. It was presented for collection and the same was returned dishonoured for the reason “Exceeds Arrangements”. Immediately, the respondent caused statutory notice and lodged a complaint.

3. On the side of the respondent, he was examined as P.W.1 and marked Exs.P1 to P6. On the side of the petitioner, no one was examined and no document was marked. On a perusal of oral and documentary evidence, the Trial Court found the petitioner guilty and convicted the petitioner and sentenced him to undergo six months simple imprisonment and also awarded compensation of cheque amount. Aggrieved by the same, the petitioner preferred an appeal and the same was dismissed confirming the order passed by the Trial Court. Hence, this revision.



Crl.R.C.No.1372 of 2018

4. The learned counsel for the petitioner would submit that the petitioner had deposited 50% of the cheque amount to the credit of the Trial Court. Pending the revision, the petitioner is willing to pay the remaining cheque amount, within a period of four weeks.

5. Considering the submission made by learned counsel for the petitioner, the Judgment passed in C.A.No.57 of 2016, dated 05.09.2018, on the file of the learned Additional District Judge (FTC) Villupuram, confirming the order passed in C.C.No.50 of 2011 dated 28.11.2016, on file of the Judicial Magistrate No.1, Villupuram, are hereby set aside, on condition that the petitioner shall pay the remaining 50% of the cheque amount directly to the respondent by way of Demand Draft, on or before 25.11.2022, failing which, the conviction and sentence imposed by the Courts below stands automatically restored. On such payment, the respondent is permitted to withdraw the amount which was already deposited by the petitioner to the credit of the Trial Court, by way of filing appropriate application. It is made clear that the Trial Court shall permit the same, without ordering notice to the petitioner.



Crl.R.C.No.1372 of 2018

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6. Accordingly, this Criminal Revision case stands allowed.

27.10.2022
($\frac{1}{2}$)

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

To

- 1.The Additional District Judge (FTC) Villupuram.
- 2.The Judicial Magistrate No.1, Villupuram.



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Crl.R.C.No.1372 of 2018

G.K.ILANTHIRAIYAN. J,

mn

Crl.R.C.No.1372 of 2018

27.10.2022