



CRL.R.C.No.1484 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2022

CORAM

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

Crl.R.C.No.1484 of 2018

S.P.Prasad
Proprietor,
Rishi Power Solution,
No.8/9, 9th Street Extension,
100 Feet Road, Gandhipuram,
Coimbatore.

... Petitioner

Vs.

Industrial Power Solutions
Rep. by its Proprietor,
Jayaprabha,
Pillayarpuram,
Kurichi Housing Unit,
Phaseil SITCO,
Sundarapuram,
Coimbatore.

... Respondent

PRAYER: Criminal Revision case has been filed under Section 397 r/w 401 of Cr.P.C to call for the entire records in respect of the judgment rendered by the learned I Additional District and Sessions Judge, Coimbatore, in C.A.No.144 of 2017 dated 28.03.2018 by confirming the judgment passed by the learned Judicial Magistrate/Fast Track Court No.I,



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Magisterial Level, Coimbatore in C.C.No.498 of 2014 dated 29.05.2017
and set aside the judgment and acquit the accused.

For Petitioner : Mr.T.Sreelekha

For Respondent : Mr.A.Thirumaran

ORDER

This Criminal Revision is directed as against the judgment passed in C.A.No.144 of 2017 dated 28.03.2018 on the file of the learned I Additional District and Sessions Judge, Coimbatore, confirming the order passed in C.C.No.498 of 2014 dated 29.05.2017 on the file of the learned Judicial Magistrate, Fast Track Court No.I Magistrate level, Coimbatore, thereby convicted the petitioner for the offence under Section 138 of Negotiable Instruments Act (herein after referred to as “the NI Act”) and sentenced him to undergo six months simple imprisonment and also awarded compensation of the cheque amount.

2. The petitioner is an accused in the complaint lodged by the respondent. The respondent lodged complaint alleging that the petitioner used to purchase the batteries on credit basis from the respondent and sell them to his customers. As per the accounts maintained by the respondent



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during the regular course of business, the petitioner is liable to pay a sum of Rs.3,09,183/- for the period from 20.10.2012 to 02.09.2013. In order to settle the same, the petitioner issued cheque for the said sum. When it was presented for collection, the same was returned dishonor for the reason that funds insufficient. Therefore, the respondent caused legal notice and thereafter filed this present complaint.

3. On the side of the respondent, she herself examined as P.W.1 and also marked documents as Ex.P.1 to Ex.P.8. On the side of the petitioner no one was examined and no document has been marked. On a perusal of oral and documentary evidences, the trial Court found the guilt of the petitioner and sentenced him to undergo six months simple imprisonment and also awarded compensation of Rs.3,09,183/- towards the cheque amount. Aggrieved by the same, the petitioner preferred an appeal and the same was also dismissed by confirming the order passed by the trial Court. Hence, the petitioner filed this present revision.



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4. Heard Ms.T.Sreelekha, learned counsel appearing for the petitioner and Mr.A.Thirumaran, learned counsel appearing for the respondent.

5. The learned counsel appearing for the petitioner submitted that at the time of suspending the sentence, this Court directed the petitioner to deposit 50% of the cheque amount before the Court below. Accordingly, the petitioner duly deposited 50% of the cheque amount before the trial Court. She further submitted that the petitioner is ready and willing to settle the cheque amount within a period of two weeks from today.

6. The learned counsel appearing for the respondent submitted that if the petitioner settled the cheque amount, he has no objection to allow this revision petition.

7. Considering the facts and circumstances of the case, this Court is inclined to set aside the conviction imposed on the petitioner.



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Accordingly, the conviction and sentence imposed by the Courts below are hereby set aside, on condition that the petitioner shall pay the remaining cheque amount by way of Demand Draft drawn in favour of the respondent on or before 21.11.2022, failing which the sentence imposed by the Courts below shall stand automatically restored. The respondent is also permitted to withdraw 50% of the cheque amount lying in the trial Court account. It is made clear that the trial Court shall permit the respondent to withdraw the said amount without issuance of notice to the petitioner herein.

8. With the above directions, the Criminal Revision Petition stands allowed.

07.11.2022

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

***Note : Issue order copy on or
before 09.11.2022***

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G.K.ILANTHIRAIYAN, J

rts

To

1. The I Additional District and Sessions Judge,
Coimbatore.
2. The Judicial Magistrate
Fast Track Court No.I,
Magisterial Level, Coimbatore .

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