



Crl.R.C.No.942 of 2020  
and  
Crl.M.P.No.6533 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:28.06.2023

Coram:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Crl.R.C.No.942 of 2020  
and  
Crl.M.P.No.6533 of 2020

N.Murugesan

.. Petitioner

/versus/

V.C.Ravichandran

.. Respondent

Prayer: Criminal Revision Case has been filed under Section 397 r/w Section 401 of Cr.P.C., against the order of conviction and sentence dated 04.08.2020 in C.A.No.187 of 2019 on the file of the I Additional District and Sessions Court, Salem, confirming the order of conviction and sentence dated 24.07.2019 in S.T.C.No.43 of 2016 on the file of the Judicial Magistrate II, Salem.

For Petitioner :Mr.K.Selvaraj

For Respondent :Mr.P.Jagadeesan



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## ORDER

This Criminal Revision Case has been preferred, being aggrieved the concurrent finding of the Courts below holding the accused guilty of the cheque for Rs.13,97,500/- in favour of the complainant, who is the respondent herein.

2. The trial Court held the accused guilty of offence under Section 138 of the Negotiable Instruments Act, 1881 and sentenced him to undergo six months SI and to pay the cheque amount of Rs.13,97,500/- as compensation to the complainant within a period of two months. Aggrieved by that, the accused preferred an appeal before I Additional District and Sessions Court, Salem in C.A.No.187 of 2019 and the lower Appellate Court confirmed the judgment of the trial Court vide order dated 04.08.2020.



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3. The learned counsel appearing for the petitioner had put forth his argument on the revision petition on several grounds including impropriety of the judgment passed by the Court below. However, this Court found that the grounds of the revision petition does not warrant any interference on the finding of the Courts below.

4. The learned counsel appearing for the petitioner gross submitted that as against the debt, the complainant has already filed the suit against the accused and the decree has been passed in O.S.No.233 of 2012 by the II Additional District Judge, Salem dated 30.10.2018 and therefore, if the order of the Courts below is confirmed, then the accused/revision petitioner will be mulcted double penalty, which will go against the *principle of double jeopardy party* and the learned counsel appearing for the petitioner also submitted that the revision petitioner is ready to pay the cheque amount and the sentence imposed on him modifies accordingly.



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5. After considering the submissions, this Court partly allows the revision petitioner modifying the sentence as below:-

The petitioner/accused found guilty of the offence under Section 138 of the Negotiable Instruments Act, 1881 and sentence him to pay a sum of Rs.13,97,500/- as compensation.

6. The learned counsel appearing for the revision petitioner at this juncture sought time to pay the compensation amount by way of two Demand Drafts and took adjournment and accordingly, the matter was listed today.

7. Two Demand Drafts for Rs.3,97,500/- dated 27.06.2023 and Rs.10,00,000/- dated 21.06.2023 respectively in favour of the complainant drawn on Canara Bank, Mullur II Branch, produced before this Court and learned counsel appearing for the respondent/complainant received the same under acknowledgement. The learned counsel appearing for the respondent submitted that the respondent may be



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permitted to proceed against the borrowed in the Execution Petition arising out of O.S.No.233 of 2012, after defraying the money received today.

8. In the light of the above fact, this Criminal Revision Case is partly allowed and the sentence imposed on the petitioner/accused by the trial Court is modified as stated above with a liberty to the respondent/complainant to pursue his Execution Petition giving due credit to the money received today as Demand Drafts. Consequently, connected Miscellaneous Petition is closed.

28.06.2023

Index:yes/no  
Speaking order/non speaking order  
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To:

1.I Additional District and Sessions Court, Salem.  
2.The Judicial Magistrate No.II, Salem.



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Dr.G.JAYACHANDRAN,J.

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