



Crl.RC No.1269 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **06.02.2023**

CORAM

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.R.C. No.1269 of 2017
and Crl.M.P. No.12318 of 2017

1. P.M.R.Granites,
Rep. Partner P.Manickavasagam,
3/40, Sellappampalayam,
Chithode (Post), Erode – 638 102.

2. P.Manickavasagam
3. P.Ravichandran

... Petitioners / accused 1-3

Vs.

P.Dhanasekaran

... Respondent

Criminal Revision Petition is filed under Section 397 & 401 of Criminal Procedure Code, to call for the records of the judgment passed in C.A. No.69 of 2017 dated 31.07.2017 on the file of the I Addl. District and Sessions Judge, Erode confirming the judgment passed by the Judicial Magistrate (Fast Track Court No.2), Erode, in S.T.C. No.102 of 2016 dated 06.02.2017 to undergo simple imprisonment of one year and imposed a fine



of Rs.3,000/- on each of the petitioner / accused A2 and A3 and in default in payment of fine to undergo simple imprisonment for a period of three months and set aside the same.

For Petitioners : Mr.V.M.Venkatramana

For Respondent : Mr. C.S.Saravanan

ORDER

This Revision Petition is filed challenging the judgment passed in C.A. No.69 of 2017 dated 31.07.2017 on the file of I Addl. District and Sessions Judge, Erode.

2. The petitioners are the accused 1-3 against whom the respondent / complainant had filed a complaint under Section 138 of Negotiable Instruments Act. The first petitioner is a partnership firm and the second and third petitioners are its Managing partners. As per the allegation of the respondent made in his complaint, the petitioner had availed a loan for a sum of Rs.2,00,000/- on 05.08.2013 from the respondent and towards discharge of the same, he issued a post dated cheque for a sum of



Rs.2,00,000/- dated 05.09.2013 drawn from State Bank of India, Erode Branch. When the cheque was presented on 07.09.2013 for collection, it was dishonoured for want of sufficient funds.

3. After complying the legal mandates, the complaint was filed and the trial Court had found the accused guilty. After conclusion of the trial, the second and third petitioner who are partners of the first accused company were sentenced to undergo Simple Imprisonment for a period of one year and imposed with a fine of Rs.3,000/- on accused 2 & 3 and in default to undergo three months Simple Imprisonment. The accused challenged the same by way of preferring an appeal in C.A. No.69 of 2017 before the I Additional District and Sessions Judge, Erode and the same was dismissed by confirming the judgment of the trial Judge. Aggrieved over the same the present revision petition has been preferred.

4. When the petition was admitted, a conditional order has been passed by this Court to deposit a sum of Rs.1,00,000/- to the credit of the trial Court and the parties were agreed to settle the balance amount; the transaction is of the year 2013 and since ten years have lapsed, the



petitioners who have successfully dragged the matter for ten years have not chosen to settle the issue till now.

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5. The petitioners did not deny the execution of the cheque and the respondent had successfully proved before the Court about the impugned transaction between himself and the petitioners. Since there are no rebuttal circumstances or rebuttal evidence available in support of the petitioners, the initial presumption had become conclusive and the guilt of the accused got established. However by way of giving one last opportunity, I feel that a conditional order can be passed by confirming the finding of the Courts below by modifying the sentence part alone.

6. In the result the Criminal Revision Petition is partly allowed and the judgment dated 31.07.2017 passed in C.A. No.69 of 2017 by the learned I Additional District and Sessions Judge, Erode is modified to the extent that the sentence imposed for a period of one year is reduced to six months simple imprisonment on condition that the petitioners are ordered to pay the remaining cheque amount of Rs.1,00,000/- along with the cost of Rs.25,000/- within a period of four weeks from the date of receipt of a copy



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of the judgment. Failing which the petitioners shall be secured to undergo sentence as per the judgment of the lower appellate Court. The fine amount already imposed is said to have been paid and the same is confirmed. The respondent is at liberty to withdraw the sum of Rs.1,00,000/- which had already been deposited on the credit of trial Court as per the conditional order of this Court dated 03.10.2017. Connected miscellaneous petition is closed.

06.02.2023

Index : Yes/No
Speaking Order : Yes / No
bkn

To:

1. The I Addl. District and Sessions Judge,
Erode.
2. The Judicial Magistrate (Fast Track Court No.2),
Erode.
3. The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA, J.,

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