



Crl.R.C.No.902 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 09.06.2023

PRONOUNCED ON : 04.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

CRL.R.C.No.902 of 2019

M.Devi ... Petitioner/sole accused

-Vs-

E.M.Sarathi ... Respondent / Complainant

PRAYER: Criminal Revision Case is filed under Section 397(1) & 401 of Cr.P.C., against the judgment passed by the learned IV Additional District & Sessions Judge, Thiruvallur at Ponneri in Crl.A.No.128 of 2018 dated 14.06.2019, confirming the conviction and the compensation passed by the learned Judicial Magistrate, Thiruvotriyur by judgment dated 20.03.2018 in STC No.299 of 2016.

For Petitioner : Mr.V.Paarthiban

For Respondent : No appearance



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ORDER

Convicted sole accused is the revision petitioner herein.

2. Short facts leading to the filing of the revision, is as follows:

(i) According to the respondent-complainant, the revision petitioner borrowed a sum of Rs.32,40,700/- from him for the development of her two wheeler business and to repay the said amount, the accused/revision petitioner said to have executed the following two cheques in favour of the said respondent.

1. Rs.16,10,300/- Chq.No.179427 dated 14.01.2016
2. Rs.16,30,400/- Chq.No.179428 dated 14.01.2016

(ii). Both cheques drawn on Indian Bank, Manali Branch, Chennai and when the said cheques were presented by the respondent through his Union Bank of India, EC Tanuvas, Madavaram, Chennai on 14.01.2016, the same returned unpaid with an endorsement 'Funds Insufficient' and the said news was intimated on 20.01.2016. Later the respondent sent a legal notice



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dated 30.01.2016 to the revision petitioner and the revision petitioner has made suitable reply by letter dated 19.02.2016. Not satisfied with the reply, the respondent-complainant filed a private complaint before the learned Judicial Magistrate, Thiruvotriyur in STC No.299 of 2016, based upon Ex.P1 (2 Cheques) which were dishonoured under Ex.P2.

(iii) After trial, the trial Court has convicted the accused under Section 138 of the Negotiable Instruments Act and sentenced her to undergo Rigorous Imprisonment for six months and directed to pay the compensation of cheques amount of Rs.16,10,300/- and Rs.16,30,400/- in total Rs.32,40,700/- failing which to undergo one month simple imprisonment.

(iv) Aggrieved against the said order, the accused has filed Criminal Appeal No.128 of 2018 before the learned IV Additional District and Sessions Judge, Thiruvallur @ Ponneri and by a judgment dated 14.09.2017, the same is confirmed. Hence, the revision.



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3. Heard the learned counsel for the petitioner/accused. The respondent is called absent.

4. I find that the Criminal Appeal in Crl.A.No.128 of 2018 was disposed of in the absence of appellant, as could be seen from the jurist portion.

5. Learned counsel for the accused/revision petitioner submitted that without hearing the appellant, she has been convicted and conviction has been confirmed by the appellate Court. Pending revision, it appears that she was taken into custody and she was in custody for 20 days. An order of suspension was passed on 17.09.2019.

6. Mr.Paarthiban, learned counsel for the petitioner submitted that there is a defect in the notice, since amount was not mentioned there and during the cross examination of PW1, it is elicited that the revision



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petitioner- accused is liable to pay only Rs.5 Lakhs and issued a blank cheque to the complainant and further stated the private complainant has no financial capacity to pay the huge amount of Rs.35 Lakhs to the accused.

7. It is seen from the lower appellate Court order that an opportunity of being heard for the convicted appellant was not given. Argument of the private complainant is taken into consideration and the conviction of the accused was confirmed and hence, I find that it is a case, which needs re-hearing by the lower appellate Court.

8. Accordingly, the Criminal Revision Case is allowed. The order passed by the learned IV Additional District & Sessions Judge, Thiruvallur at Ponneri in Crl.A.No.128 of 2018, dated 14.06.2019, is set aside. The matter is remitted back to the learned IV Additional District and Sessions Judge, Thiruvallur at Ponneri and the learned IV Additional District and Sessions Judge is hereby required to appoint a legal aid Advocate for the purpose of conducting the Criminal Appeal on behalf of the accused within



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a period of two weeks from the date of receipt of a copy of this order and thereafter, pass orders within a period of four weeks, after hearing the legal aid Advocate, so appointed.

04.08.2023

Index: Yes / No
Speaking/Non-Speaking order
Neutral Citation: Yes/No.
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To



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1. The IV Additional District & Sessions Judge,
Thiruvallur at Ponneri.
2. The Judicial Magistrate,
Thiruvotriyur
3. The Public Prosecutor,
High Court, Madras.



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RMT. TEEKAA RAMAN, J.

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Pre-delivery Judgment made in
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