



Crl.R.C.(MD)No.168 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 23.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

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and

Crl.M.P(MD) 2548 of 2019

Maruthavanan ... Revision Petitioner/Appellant / Accused
vs.

N.Thirumalaikumar ... Revision Respondent/ Respondent Complainant

PRAYER : This Criminal Revision has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records from the lower court and to duly set aside the order passed by the learned Additional District Court, Srivillipudhur, Virudhunagar District in his C.A. No 120 of 2014 dated 02.03.2019 in confirming the judgment of the Judicial Magistrate Rajapalayam, Virudhunagar District in C.C.No.198 of 2013 dated 02.09.2014.

For Petitioner : Mr.K.Prabhu

For Respondent : Mr.A.Sivaji



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ORDER

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This Criminal Revision Petition has been filed as against the Judgment passed by the learned Additional District Court, Srivillipudhur, Virudhunagar District in C.A.No.120 of 2014 dated 02.03.2019 by confirming the order of the learned Judicial Magistrate Rajapalayam, Virudhunagar District in C.C.No.198 of 2013 dated 02.09.2014.

2.The petitioner is an accused in the complaint lodged by the respondent for the offence punishable under Section 138 of N.I. Act.

3.The crux of the complaint is that the petitioner borrowed a sum of Rs.5,44,000/- from the respondent on 10.10.2012 and he also promised to repay the said amount within a period of four months. On repeated request in order to return the money, the petitioner has issued two cheques dated 22.02.2013 for a sum of Rs.2,72,000/- each. Both the cheques were presented for collection. However, both cheques were returned dishonored for the reason 'funds insufficient'. After causing statutory notice, the respondent lodged a complaint.



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4.On the side of the respondent, he had examined P.W.1 and P.W.2 and marked Ex.P.1 to Ex.P.9. On the side of the accused, he had examined D.W.1 and D.W.2 and marked Ex.D.1 to Ex.D.3.

5.On perusal of the oral and documentary evidence, the trial Court found the petitioner guilty for the offence under Section 138 of N.I. Act and sentenced him to undergo two years Simple Imprisonment and to pay a fine of Rs.5,000/- in default to undergo 6 months Simple Imprisonment. Aggrieved by the same, the petitioner has preferred an appeal in C.A.No.120 of 2014 before the learned Additional District Court, Srivillipudhur, Virudhunagar District and the Appellate Court also dismissed the appeal on 02.03.2019 and confirming the order of conviction and sentence imposed by the trial Court. Hence, the present revision.

6.At the time of suspending the sentence of the petitioner, the petitioner was directed to deposit a sum of Rs.1,50,000/- to the credit of C.C.No.198 of 2013 on the file of the learned Judicial Magistrate Rajapalayam, Virudhunagar District. Subsequently, he was directed to



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deposit the remaining cheque amount. Both directions were duly complied with and the petitioner deposited a sum of Rs.1,50,000/- to the credit of C.C.No.198 of 2013 on the file of the learned Judicial Magistrate Rajapalayam, Virudhunagar District, on 06.05.2019 and a sum of Rs.3,94,000/- was deposited in C.C.No.198 of 2013 before the trial Court on 01.07.2019.

7.Now the learned counsel for the petitioner would submit that he has no objection to withdraw the said amount by the respondent.

8.The learned counsel for the respondent also satisfied with the cheque amount, which was already deposited by the petitioner.

9.In view of the above, the Judgment made in C.A.No.120 of 2014, dated 26.09.2018 on the file of the learned Additional District Court, Srivillipudhur, Virudhunagar District, confirming the order made in C.C.No.198 of 2013, dated 02.09.2014 on the file of the Judicial Magistrate No.I, Tiruchirappalli is set aside.



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10. Accordingly, the Criminal Revision Case is allowed. The petitioner/accused is acquitted. Bail bond if any executed by the petitioner/accused shall stand cancelled and a fine amount if paid is ordered to be refunded to the petitioner/accused forthwith. Consequently connected miscellaneous petition is closed.

11. The respondent is permitted to withdraw the amount, which was deposited by the petitioner by way of proper application before the trial Court. It is also made clear that the trial Court is directed to permit the respondent to withdraw the amount without ordering notice to the petitioner herein.

23.06.2023

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NCC : Yes/No

Index: Yes/No

Internet: Yes/No

To

1. The Additional District Court,
Srivillipudhur, Virudhunagar District.
2. The Judicial Magistrate Rajapalayam,
Virudhunagar District.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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