



Crl.R.C.(MD)No.173 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date : 26.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.(MD)No.173 of 2019

and

Crl.M.P.(MD)Nos.2669 and 2670 of 2019

M.Suresh

... Petitioner/Appellant/Accused

vs.

G.Gnana Prakasam

... Respondent/Respondent/Complainant

PRAYER : This Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records pertaining to the Judgment for conviction and sentence passed in C.A.No.17 of 2017 on the file of the learned III Additional Sessions Judge, Tirunelveli, dated 07.01.2019 confirming the Judgment in S.T.C.No.376 of 2016 on the file of the learned Judicial Magistrate No.I, Tirunelveli, dated 15.02.2017 and set aside the same.

For Petitioner : Mr.B.N.Rajamohammed

For Respondent : Mr.R.J.Karthick



ORDER

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This revision has been filed to set aside the Judgment for conviction and sentence passed in C.A.No.17 of 2017 on the file of the learned III Additional Sessions Judge, Tirunelveli, dated 07.01.2019 confirming the Judgment made in S.T.C.No.376 of 2016 on the file of the learned Judicial Magistrate No.I, Tirunelveli, dated 15.02.2017.

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

3.The crux of the complaint is that the petitioner has borrowed a sum of Rs.20,00,000/- on 01.05.2011 for his business purpose. He also agreed to repay the same with interest at the rate of 12% per annum and issued a post dated cheque dated 13.07.2011 for a sum of Rs.20,00,000/-. On instructions, the said cheque was presented for collection and it was returned dishonored for the reasons “funds insufficient”. After causing statutory notice, the respondent lodged a complaint.

4.On the side of the respondent, he had examined P.W.1 and marked Ex.P.1 to Ex.P.7. On the side of the petitioner, he had examined D.W.1 and marked Ex.D.1 and Ex.D.2.



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5.On perusal of the oral and documentary evidence, the trial Court found the petitioner was guilty for the offence under Section 138 of the N.I. Act and sentenced him to undergo one year Simple Imprisonment and also ordered to pay a fine of Rs.1000/- in default to undergo three months Simple Imprisonment. Aggrieved by the same, the petitioner has preferred an appeal in C.A.No.17 of 2017 before the learned III Additional Sessions Judge, Tirunelveli and the same was also dismissed on 07.01.2019 and confirmed the order of conviction and sentence imposed by the trial Court. Hence, the present revision.

6.The learned counsel for the petitioner would submit that the petitioner is ready and willing to settle the cheque amount within a period fixed by this Court.

7.The learned counsel for respondent also agreed the same.

8.It is also pertinent to note that the suspension of the petitioner did not even suspend till now.

9.In view of the submissions made by the learned counsel on either side, the order of conviction passed by the Courts below is hereby



confirmed. Insofar as the sentence is concerned, it is modified to the effect that the petitioner shall pay a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) by way of demand draft to the defacto complainant directly on or before **21.08.2023**, failing which, the sentence imposed by the Courts below is hereby restored without any further reference to this Court and the respondent is at liberty to execute the sentence imposed by the Courts below in accordance with law.

10. With above modification, this Criminal Revision Case is partly allowed. Consequently, connected miscellaneous petitions are closed.

26.06.2023

NCC : Yes/No

Index: Yes/No

Internet: Yes/No

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To

1. The III Additional Sessions Judge, Tirunelveli.

2. The Judicial Magistrate No.I, Tirunelveli.

3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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