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Crl.R.C(MD)No.4 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2023

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.4 of 2019

A.Rajamanickam

....Petitioner

Vs.

V.Saravanan

... Respondent

PRAYER: Criminal Revision Case filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to set aside the judgment in C.A.No. 102 of 2017 dated 20.06.2018 on the file of the II Additional District and Sessions Court, Thoothukudi confirming the judgment made in CC No.135 of 2015 dated 15.09.2016 on the file of the Fast Track Court(Magisterial Level).
Thoothukudi

For Petitioner : Mr.C.Godwin

For Respondent : Mr.Ka.Ramakrishnan

ORDER

This revision has been filed to set aside the judgment in C.A.No. 102 of 2017 dated 20.06.2018 on the file of the II Additional District and Sessions Court, Thoothukudi confirming the judgment made in CC No.135 of 2015 dated 15.09.2016 on the file of the Fast Track Court(Magisterial Level).
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2.The petitioner is the complainant and the respondent is the accused on the complaint lodged against the respondent for the offence punishable under Section 138 of the Negotiable Instruments Act.

3.The crux of the complaint is that the respondent had borrowed a sum of Rs. 1,75,000/- from the petitioner on 03.03.2015 for his urgent family needs and he also promised to repay the same within one month. When the petitioner demanded the same after one month the respondent issued cheque for the said amount on 04.04.2015. The said cheque was presented for collection and the same was returned for the reason 'In sufficient Funds'. After causing statutory notice the present complaint has been filed by the petitioner.

4.On perusal of the oral and documentary evidence the trial court found the respondent not guilty for the offence under section 138 of Negotiable Instrument Act and acquitted him. Aggrieved by the same, the petitioner had preferred an appeal and the same was also dismissed. Aggrieved by the same, the present revision has been filed.



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5. The learned counsel for the petitioner would submit that he had proved his case beyond any reasonable doubts and the respondent had failed to discharge the initial burden in order to prove his case under section 138 of the N.I.Act. That apart the respondent failed to rebut the presumption arises under Sections 118 and 139 of the Negotiable Instrument Act. Further both the courts below have mechanically acquitted the respondent for the offence under section 138 of the Negotiable Instrument Act.

6. Heard both sides and perused the materials available on record.

7. From perusal of the record it is revealed that even from examination of P.W.1., during his cross examination he himself categorically admitted that Ex.Ps. D.1 and D.2 which were produced by the respondent, there is endorsement for the said amount. It was also categorically admitted by P.W.1. Even though the petitioner accepted the cheque, he failed to produce any document to show that there was money transactions between the petitioner and the respondent herein. Therefore the respondent had rebutted the presumption of the cheque that the cheque was not issued for any legally enforceable debt. That apart the alleged cheque was a typed one. Further the petitioner did not receive any document while lending a sum of



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Rs.1,75,000/-. No prudent man will lend such a huge money without any security. Even according to the petitioner, the alleged cheque was issued after repeated demand made by the petitioner in order to repay the loan borrowed by the respondent herein. Therefore the respondent had categorically rebutted the presumption and both the Courts have rightly dismissed the petition and this Court finds no illegality or infirmity in the order passed by both the Courts below.

8. Accordingly the Criminal Revision case stands dismissed.

12.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
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To

1. The II Additional District and Sessions Court, Thoothukudi
2. The Fast Track Court(Magisterial Level). Thoothukudi



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G.K.ILANTHIRAIYAN, J.

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Order made in
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12.06.2023