



Crl.R.C(MD)No.144 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.03.2023

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.144 of 2018

and

Crl.M.P.(MD)Nos.1934 and 3479 of 2018

M.Chellampillai ... Petitioner/Appellant/Sole Accused

Vs.

G.Archunan ... Respondent/Respondent/Complainant

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records relating to the Judgment dated 13.07.2016 made in C.A.No.35 of 2015 on the file of Mahila Court/Sessions, Karur confirming the conviction of the petitioner under Section 138 of N.I Act and modifying the sentence into two months simple imprisonment from the simple imprisonment of five months imposed by the Fast Track Court at Magistrial Level of Karur by his Judgment of conviction and sentence dated 06.06.2015 made in C.C.No.546 of 2014.

For Petitioners : Mr.V.Janikiramulu

For Respondent : Mr.S.Deena Dhayalan



Crl.R.C(MD)No.144 of 2018

WEB COPY

ORDER

This Criminal Revision Petition has been filed to set aside the Judgment passed in Criminal Appeal No.35 of 2015, dated 13.07.2016, on the file of the learned Mahila Court/Sessions, Karur by confirming the conviction of the petitioner for the offence under Section 138 of N.I Act and modifying the sentence into two months S.I. from 5 months S.I imposed by the Fast Track Court at Magistrial Level, Karur in C.C.No.546 of 2014, dated 06.06.2015.

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

3.The crux of the complaint is that on 30.06.2013, the petitioner borrowed a sum of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only) from the respondent for his urgent family expenses and other expenses and he also agreed to repay the said sum with interest at the rate of 1.50 per Rs.100/- per month. The petitioner also executed a pronote to the said amount. However, the petitioner failed to pay any interest as agreed by him. On repeated demands in order to repay the said amount, the petitioner issued a cheque for a sum of Rs.2,50,000/- and the same was presented for



Crl.R.C(MD)No.144 of 2018

collection. It was returned as dishonored for the reason "funds insufficient". Thereafter, the respondent caused statutory notice and filed the complaint.

4.On the side of the respondent, he had examined himself as P.W.1 and exhibited 6 documents as Ex.P.1 to Ex.P.6. On the side of the petitioner, no one was examined and no document was marked.

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 5 months Simple Imprisonment and to pay a fine of Rs.1,500/- (Rupees One Thousand and Five Hundred only) in default to undergo one month Simple Imprisonment. Aggrieved by the same, the petitioner preferred an appeal in C.A.No.35 of 2015 on the file of the Mahila Court/Sessions, Karur and the Appellate Court confirmed the conviction and modified the sentence from 5 months S.I to 2 months S.I. Hence, the present revision.

6.The learned counsel for the petitioner would submit that while pending the revision, the petitioner and the respondent settled their issues amicably and the respondent also agreed to receive



Crl.R.C(MD)No.144 of 2018

Rs.90,000/- instead of Rs.2,50,000/-. Only the petitioner also paid a sum of Rs.20,000/- and the remaining amount of Rs.70,000/- will paid to the respondent within a period of two weeks.

7.A perusal of the records reveals that the petitioner never denied the signature and the execution of Ex.P.1 and Ex.P2. Ex.P.2 was presented for collection and the same was returned for the reason "funds insufficient". The respondent caused statutory notice. It was marked as Ex.P.4. Therefore, the petitioner had knowledge about the statutory notice and even the petitioner did not send any reply in order to rebut the presumption. Therefore, the respondent discharged his initial burden and proved his case for the offence under Section 138 of N.I Act. The petitioner also did not examine anybody and did not mark any material evidence in order to dispute the case of the petitioner. Therefore, both the Courts below had rightly convicted the petitioner for the offence under Section 138 of N.I Act. Hence, this Court finds no infirmity or illegality in the Judgment of conviction and sentence imposed by the Courts below and the revision is liable to be dismissed.

8.Accordingly, it is dismissed. If the petitioner settles whatever amount agreed by the respondent on or before



Crl.R.C(MD)No.144 of 2018

26.05.2023, the conviction and sentence imposed by the Courts below is hereby set aside. Consequently, connected miscellaneous petitions are closed.

31.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
sji

To

- 1.The Mahila Court/Sessions, Karur.
- 2.The Fast Track Court at Magistrial Level of Karur.
- 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.



WEB COPY



Crl.R.C(MD)No.144 of 2018

G.K.ILANTHIRAIYAN, J.

sjl

Order made in
Crl.R.C(MD)No.144 of 2018
and
Crl.M.P.(MD)Nos.1934 and 3479 of 2018

31.03.2023