



CrI.R.C.(MD)No.68 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.04.2023

CORAM

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CrI.R.C.(MD)No.68 of 2018

Ramraj

... Petitioner

Vs.

A.H.S.Hameed Sulthan

... Respondent

PRAYER : Criminal Revision Case filed under Section 397 r/w 401 of Code of Criminal Procedure, to call for the records pertaining to the judgment dated 14.02.2017 made in C.A.No.31 of 2012 on the file of the learned Additional District and Sessions Judge, Theni confirming the conviction and sentence imposed by the learned Judicial Magistrate Fast Track, Theni in C.C.No.109 of 2011, dated 28.10.2011 whereby the petitioner has been convicted for offence under Section 138 of the Negotiable Instruments Act and sentenced him to undergo simple imprisonment for 6 months and he was directed to pay compensation a sum of Rs.4,00,000/- under Section 357 (3) of Cr.P.C. and set aside the same by allowing the above criminal revision petition.

For Petitioner : Mr.J.Lawrance



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ORDER

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This Criminal Revision Case has been filed to set aside the judgment dated 14.02.2017 made in C.A.No.31 of 2012 on the file of the learned Additional District and Sessions Judge, Theni confirming the conviction and sentence imposed by the learned Judicial Magistrate Fast Track, Theni in C.C.No.109 of 2011, dated 28.10.2011.

2.The petitioner is an accused in the complaint lodged by the respondent for the offence punishable under Section 139 of the Negotiable Instruments Act. The crux of the complaint is that on 06.04.2009, the petitioner borrowed a sum of Rs.4,00,000/- from the respondent and also assured to repay the same within a period of three months. He also assured to pay interest at the rate of Rs.1/- per Rs.100/-. In order to repay the said amount, the petitioner issued cheque and the same was presented for collection. However, it was returned dishonoured for the reason that “funds insufficient”. After causing statutory notice, the respondent lodged complaint.



3. On the side of the respondent, he had examined P.W.1 and marked Ex.P.1 to Ex.P.6. On the side of the petitioner, no one was examined and marked Ex.D.1 and Ex.D.2. On perusal of oral and documentary evidence, the trial Court found the petitioner guilty for the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced him to undergo 6 months simple imprisonment and to pay compensation of Rs.4,00,000/-, payable by the petitioner within a period of three months. Aggrieved by the same, the petitioner preferred an appeal and the same was also dismissed by confirming the order passed by the trial Court. Hence, the present revision.

4. The learned counsel appearing for the petitioner would submit that after confirming the judgment passed by the trial Court, the petitioner surrendered and he was remanded to judicial custody in order to serve sentence. Along with this revision, the petitioner filed a petition for suspending the sentence and this Court, by an order dated 19.02.2018 suspended the sentence on condition that the petitioner should deposit a sum of Rs.1,00,000/- to the credit of STC.No.109 of 2011 before the learned Judicial Magistrate Fast Track, Theni. However, the petitioner



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could not able to arrange the said amount and as such, he had undergone the entire sentence of six months. After completion of six months, he was also let out from the prison.

5.It is seen that both the Courts below directed the petitioner to pay a sum of Rs.4,00,000/-. However, there was no default clause for non-payment of compensation. Now, the petitioner as directed by this Court, deposited a sum of Rs.1,00,000/- to the credit of trial Court.

6.Considering the above facts and circumstances of the case, the respondent is directed to withdraw the deposited amount. Insofar as the remaining amount of compensation is concerned, the respondent is at liberty to proceed as against the petitioner in the manner known to law. Accordingly, this criminal revision case is disposed of.

27.04.2023

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

1.The Additional District and Sessions Judge,
Theni.

2.The Judicial Magistrate Fast Track,
Theni.



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G.K.ILANTHIRAIYAN,J.

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