



Crl.R.C(MD)No.241 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.04.2023

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

**Crl.R.C(MD)No.241 of 2018
and
Crl.M.P(MD)No.3162 of 2018**

B.Indira,
W/o.Late Badra,
No.1/31, Vaniyar Street,
Big Bazar Street,
Palani,
Dindigul District.

... Petitioner/
Appellant/Sole Accused

Vs.

P.Nagarajan

... Respondent/
Respondent/Complainant

PRAYER: Criminal Revision Case filed under Sections 397 r/w 401 of the Code of Criminal Procedure, against the Judgment and conviction made in C.A.No.60 of 2017 on the file of the Additional District and Sessions Judge, Palani, dated 04.01.2018, confirming the Judgment made in S.T.C.No.27 of 2013 on the file of the learned Judicial Magistrate (Fast Track Court), Palani, dated 19.05.2017.

For Petitioner : Mr.T.Lenin Kumar

For Respondent : Mr.R.Jegadeeswaran



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ORDER

This revision has been filed to set aside the Judgment made in C.A.No.60 of 2017, on the file of the Additional District and Sessions Judge, Palani, dated 04.01.2018, confirming the Judgment made in S.T.C.No.27 of 2013 on the file of the learned Judicial Magistrate (Fast Track Court), Palani, dated 19.05.2017.

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

3.The crux of the complaint is that the petitioner borrowed a sum of Rs.6,00,000/- for her family expenses from the respondent on 04.11.2012. In order to repay the said amount, the petitioner issued a cheque for the said sum on 02.01.2013. It was presented for collection and the same was returned dishonoured for the reason 'funds insufficient'. After causing statutory notice, the respondent lodged the complaint.



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4.On the side of the respondent, he himself was examined as P.W.1 and also marked Exs.P.1 to P.6 and on the side of the petitioner, she had examined D.W.1 & D.W.2 and marked Ex.D.1.

5.On perusal of the oral and documentary evidence, the trial court found the accused guilty for the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced her to undergo six months Simple Imprisonment and also ordered compensation to the tune of cheque amount to be paid within a period of two months, in default, to undergo one month Simple Imprisonment. Aggrieved by the same, the petitioner preferred an appeal in C.A.No.60 of 2017, on the file of the Additional District and Sessions Judge, Palani. The appellate Court also dismissed the appeal and confirmed the conviction and sentence imposed by the trial court. Hence, the present revision.



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6.The learned counsel appearing for the petitioner would submit that he had no instructions from the petitioner and reported 'no instructions'. Therefore, he is withdrawing his appearance on behalf of the petitioner. Even then, the petitioner did not engage any new counsel and failed to appear before this Court either by person or through Pleader.

7.However, while suspending the sentence, this Court imposed a condition that the petitioner shall deposit a sum of Rs.2,00,000/- to the credit of the trial Court. Accordingly, the petitioner also deposited the sum of Rs.2,00,000/-as directed by this Court.

8.The learned counsel appearing for the respondent would submit that if the petitioner pays the remaining cheque amount, the respondent would satisfy with the cheque amount.

9.Considering the above facts and circumstances, this Court finds no infirmity or illegality in the order passed by the



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Courts below in order to interfere with the conviction imposed as against the petitioner herein.

10. Accordingly, the conviction imposed by the Courts below is hereby confirmed. In so far as the sentence is concerned, it is set aside on condition that the petitioner shall deposit the remaining cheque amount, namely a sum of Rs.4,00,000/- on or before 19.06.2023 to the credit of S.T.C.No.7 of 2013 on the file of the trial Court and on such deposit, the respondent is permitted to withdraw the entire cheque amount which is deposited by the petitioner on filing an appropriate application. If the petitioner failed to deposit the remaining cheque amount, the sentence imposed by the Courts below is hereby restored without any further reference to this Court and the respondent is at liberty to take appropriate steps to execute the conviction and sentence as against the petitioner in the manner known to law. Accordingly, this Criminal Revision Case is partly allowed. Consequently, connected Miscellaneous Petition is closed.

25.04.2023

NCC : Yes/No
Index : Yes/No



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Internet : Yes

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To

1.The Additional District and Sessions Court,
Palani.

2.The Judicial Magistrate (Fast Track Court),
Palani.

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W/o.Late Badra,
No.1/31, Vaniyar Street,
Big Bazar Street,
Palani,
Dindigul District.



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G.K.ILANTHIRAIYAN, J.

ps

Order made in
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25.04.2023