



Crl.R.C(MD)No.647 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2023

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.647 of 2018

Karuppasamy

... Petitioner/
Appellant/Complainant

Vs.

Pitchaiah

... Respondent/
Respondent/Accused

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records to set aside the acquittal Judgment passed in Crl.A.No.76 of 2017, dated 20.09.2018, on the file of the learned II Additional District and Sessions Judge, Thoothukudi, confirming the acquittal Judgment passed in C.C.No.63 of 2012, dated 30.01.2013 on the file of the Fast Track Court (Magisterial Level), Kovilpatti.

For Petitioner : Mr.M.Prabhu

For Respondent : Mr.G.Gomathi Sankar



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ORDER

This revision has been filed to set aside the acquittal Judgment passed in Crl.A.No.76 of 2017, dated 20.09.2018, on the file of the learned II Additional District and Sessions Judge, Thoothukudi, confirming the acquittal Judgment passed in C.C.No. 63 of 2012, dated 30.01.2013 on the file of the Fast Track Court (Magisterial Level), Kovilpatti.

2.The petitioner is the complainant and the respondent is an accused for the offence punishable under Section 138 of the Negotiable Instruments Act.

3.The crux of the complaint is that the respondent borrowed a sum of Rs.4,00,000/- as a loan. In order to repay the said amount, he issued cheque and the same was presented for collection. However, the same was returned dishonoured for the reason 'funds insufficient'. After causing statutory notice, he filed the complaint.



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4.On the side of the petitioner, he himself was examined as P.W.1 and also marked Exs.P.1 to P.8 and on the side of the respondent, he had examined D.W.1 to D.W.4 and marked Ex.D.1 to Ex.D.4.

5.On perusal of the oral and documentary evidence, the trial Court found the respondent not guilty for the offence under Section 138 of the Negotiable Instruments Act and dismissed the complaint. Aggrieved by the same, the petitioner preferred an appeal in Crl.A.No.76 of 2017 on the file of the learned II Additional District and Sessions Judge, Thoothukudi, and the Appellate Court also dismissed the same. Hence, the present revision.

6.Heard the learned counsel appearing on either side and perused the materials available on record.

7.On perusal of the records revealed that the respondent categorically rebutted the presumption arose under Sections 118 and 139 of the Negotiable Instruments Act by examining D.W.1 to D.W.3 and also marked Ex.D.1 to Ex.D.4. The



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petitioner failed to prove his source of income and also failed to send a statutory notice in accordance with law. When the respondent rebutted the presumption, the entire burden shifted on the shoulder of the petitioner herein. Even then, the petitioner failed to prove that the cheque was issued for the legally enforceable debt. Therefore, both the Courts below rightly acquitted the respondent and this Court finds no infirmity or illegality in the order passed by the Courts below. Accordingly, this Criminal Revision Case is dismissed.

18.04.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
ps

To

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



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G.K.ILANTHIRAIYAN, J.

ps

Order made in
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18.04.2023