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Crl.R.C(MD)No.284 of 2018

BEFORE THE MADURAI BENGH OF MADRAS HIGH COURT

DATED : 02.06.2023

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.284 of 2018

and

Crl.M.P(MD) Nos.3878 and 3879 of 2018

1. T.K.Madhavan
2. M/s.Krishna Timbers
Rep. by its Proprietor
T.K.Madhavan
S/o. Krishna Pillai
Krishna Mandiram
Kovel, Thiruvarampu
Kanyakumari District

....Petitioners

Vs.

1. J.Krishnan
2. The State of Tamil Nadu
Rep. by the Public Prosecutor
Nagercoil

... Respondents

PRAYER: Criminal Revision Case filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to set aside the judgment passed in Crl.A.No.93 of 2010 dated 20.04.2018 on the file of the Sessions Court, Kanyakumari at Nagercoil dismissing the appeal and confirming the order passed in STC No.1077 of 2009 dated 11.10.2010 on the file of the learned Judicial Magistrate, Padmanabhapuram and acquit the petitioner .

For Petitioners

: Mr. R.J.Karthick

For R-1
For R-2

: Mr.R.V.Sakthivel
:Mr.K.Sanjai Gandhi
Government Advocate(Crl.Side)



Crl.R.C(MD)No.284 of 2018

ORDER

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This revision has been filed to set aside the judgment passed in Crl.A.No.93 of 2010 dated 20.04.2018 on the file of the Sessions Court, Kanyakumari at Nagercoil dismissing the appeal and confirming the order passed in STC No.1077 of 2009 dated 11.10.2010 on the file of the learned Judicial Magistrate, Padmanabhapuram

2. The petitioners are accused in the complaint lodged by the first respondent for the offence punishable under Section 138 of the Negotiable Instruments Act.

3. The crux of the complaint is that the petitioners had borrowed a sum of Rs.3,00,000/-(Rupees Three Lakhs only) and on the same date in order to repay the said amount they have issued post dated cheque for the same. When it was presented for collection, the same was returned as dishonored for the reason "account closed". Thereafter, the first respondent had caused statutory notice and lodged the complaint.

4. On the side of the first respondent, one Nalla Perumal was examined as P.W.1 and marked Exs.P.1 to P.4 and on the side of the petitioners, no one was examined and no documents were marked.



Crl.R.C(MD)No.284 of 2018

5. On perusal of the oral and documentary evidence, the trial Court found the petitioners guilty for the offence under Section 138 of the Negotiable Instruments Act and sentenced them to undergo six months Rigorous Imprisonment. Aggrieved by the same, the petitioners preferred an appeal and the same was also dismissed confirming the conviction and sentence passed by the trial Court. Aggrieved by the same, the present Revision is filed.

6. The learned counsel appearing for the petitioners would submit that the petitioners are now ready and willing to settle the cheque amount within three months and on such payment, the conviction and sentence imposed by the Courts below may be set aside.

7. The learned counsel appearing for the first respondent also agreed to receive the cheque amount and he has no objection to set aside the conviction imposed by the trial Court.

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



Crl.R.C(MD)No.284 of 2018

9. Considering the above submission, the conviction imposed by the Court below is confirmed. In so far as the sentence in concerned, it is set aside on condition that the petitioners shall deposit the cheque amount on or before **03.07.2023** before the trial Court to the credit of S.T.C.No.1077 of 2009 on the file of the learned Judicial Magistrate, Padmanabhapuram and on such deposit the first respondent is permitted to withdraw the entire amount which was deposited by the petitioners by filing proper application. It is also made clear that if the petitioners fail to deposit the cheque amount on or before **03.07.2023** the sentence imposed by the trial Court is hereby restored without any further reference to this Court and the first respondent is at liberty to take appropriate steps to execute the conviction and sentence as against the petitioners in the manner known to law.

10. Accordingly this Criminal Revision case is partly allowed.
Consequently connected miscellaneous petitions are closed.

02.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
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Crl.R.C(MD)No.284 of 2018

To

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1. The Sessions Court, Kanyakumari at Nagercoil
2. The Judicial Magistrate, Padmanabhapuram



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Crl.R.C(MD)No.284 of 2018

G.K.ILANTHIRAIYAN, J.

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Order made in
Crl.R.C(MD)No.284 of 2018

02.06.2023