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Crl.R.C(MD)No.286 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.06.2023

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

**Crl.R.C(MD)No.286 of 2018
and
Crl.M.P(MD) Nos.3881 and 3882 of 2018**

T.K.Madhavan

....Petitioner

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.94 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.1078 of 2009 dated 11.10.2010 on the file of the learned Judicial Magistrate, Padmanabhapuram and acquit the petitioner .

For Petitioner	: Mr. R.J.Karthick
For R-1	: Mr.R.V.Sakthivel
For R-2	:Mr.K.Sanjai Gandhi Government Advocate(Crl.Side)

ORDER

This revision has been filed to set aside the judgment passed in Crl.A.No.94 of 2010 dated 20.04.2018 on the file of the Sessions Court,



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Kanyakumari at Nagercoil dismissing the appeal and confirming the order passed in STC No.1078 of 2009 dated 11.10.2010 on the file of the learned Judicial Magistrate, Padmanabhapuram

2. The petitioner is an 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 petitioner had borrowed a sum of Rs.2,00,000/-(Rupees Two Lakhs only) and on the same date in order to repay the said amount he had 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.



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5. On perusal of the oral and documentary evidence, the trial Court found the petitioner guilty for the offence under Section 138 of the Negotiable Instruments Act and sentenced him to undergo six months Rigorous Imprisonment. Aggrieved by the same, the petitioner 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 petitioner would submit that the petitioner is 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.



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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 petitioner shall deposit the cheque amount on or before **03.07.2023** before the trial Court to the credit of S.T.C.No.1078 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 petitioner by filing proper application. It is also made clear that if the petitioner fails 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 petitioner 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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To

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



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G.K.ILANTHIRAIYAN, J.

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Order made in
Crl.R.C(MD)No.286 of 2018

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