



Crl.R.C(MD)No.293 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.04.2023

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.293 of 2018

Karuppiah

... Petitioner/
Appellant/Sole Accused

Vs.

Azhagappan

... Respondent/
Respondent/Complainant

PRAYER: Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure, to call for the entire records in C.A.No.87 of 2017 dated 05.04.2018 on the file of the I Additional District and Sessions Judge (PCR), Tiruchirappalli, confirming the Judgment in C.C.No.400 of 2013 dated 28.08.2017 on the file of the learned Judicial Magistrate No.VI, Tiruchirappalli and set aside the Judgment of the Courts below by acquitting the revision petitioner.

For Petitioner : Mr.J.Jeyakumaran

For Respondent : Mr.M.Jegadeesh Pandyan



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Crl.R.C(MD)No.293 of 2018

ORDER

This revision has been filed to set aside the order passed in C.A.No.87 of 2017 on the file of the I Additional District and Sessions Judge (PCR), Tiruchirappalli, dated 05.04.2018, confirming the Judgment in C.C.No.400 of 2013 on the file of the learned Judicial Magistrate No.VI, Tiruchirappalli, dated 28.08.2017.

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.2,00,000/- from the respondent on 25.01.2013. On the same date, he also issued a post-dated cheque for the said sum. On instructions, it was presented for collection on 10.04.2013 and the same was returned dishonoured for the reason 'funds insufficient'. After causing statutory notice, the respondent lodged the complaint.

4.On the side of the respondent, he himself was examined P.W.1 and also marked Exs.P.1 to P.5 and on the side of



Crl.R.C(MD)No.293 of 2018

the petitioner, he himself was examined as D.W.1 and no documents were marked.

5.On perusal of the 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 six months Simple Imprisonment and also ordered compensation of Rs.2,00,000/- to the respondent in default to undergo a further period of three months Simple Imprisonment. Aggrieved by the same, the petitioner preferred an appeal and the same was also dismissed, confirming the conviction and sentence imposed by the trial Court. Hence, the present Revision.

6.The learned counsel appearing for the petitioner would submit that the petitioner is ready and willing to settle the cheque amount within a period of four weeks and on such payment, the conviction may be set aside.

7.Considering the above facts and circumstances, this Court finds no ground to set aside the conviction and sentence imposed by the trial Court. However, if the petitioner settled the cheque amount of Rs.2,00,000/- in favour of the respondent directly



Crl.R.C(MD)No.293 of 2018

by way of Demand Draft on or before 08.05.2023, the conviction and sentence imposed on the petitioner under Section 138 of the Negotiable Instruments Act by the Courts below is hereby set aside. If the petitioner failed to settle the cheque amount in favour of the respondent, the conviction and sentence imposed by the Courts below are 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 in the manner known to law.

8.This Criminal Revision Case is disposed of, with the above direction.

06.04.2023

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



Crl.R.C(MD)No.293 of 2018

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To

1.The I Additional District and Sessions Judge (PCR),
Tiruchirappalli.

2.The Judicial Magistrate No.VI,
Tiruchirappalli.



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Crl.R.C(MD)No.293 of 2018

G.K.ILANTHIRAIYAN, J.

ps

Order made in
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06.04.2023