



Crl.R.C(MD)No.340 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2023

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.340 of 2018

and

Crl.M.P.(MD)No.4711 of 2018

V.K.Lalitha Prasad

... Petitioner

Vs.

1.E.R.Sugumaran

2.The State of Tamil Nadu,
Rep. By Public Prosecutor,
Nagercoil,
Kanyakumari District.

... Respondents

PRAYER: Criminal Revision Case filed under Sections 397(1) r/w 401 of the Code of Criminal Procedure, to call for the records and set aside the Judgment dated 14.03.2018 passed Crl.A.No.72 of 2007 on the file of the learned Sessions Judge, Kanyakumari Division at Nagercoil, confirming the conviction and sentence imposed upon the petitioner in C.C.No.225 of 2005 on the file of the learned Judicial Magistrate Court No.I, Kuzhithurai, Kanyakumari District dated 02.04.2007 and acquit the petitioner.

For Petitioner : Mr.N.Subramani

For 2nd Respondent : Mr.K.Sanja Gandhi,
Government Advocate (Crl. Side)



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ORDER

This revision has been filed to set aside the order passed in Crl.A. No.72 of 2007 on the file of the learned Sessions Judge, Kanyakumari Division at Nagercoil, dated 14.03.2018, confirming the conviction and sentence passed in C.C.No.225 of 2005 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District, dated 02.04.2007.

2.The petitioner is an accused in the complaint lodged by the first respondent and the first respondent is the complainant 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.1,20,000/- from the respondent as loan and also assured to repay the said amount within a period of two months. On demand, the petitioner issued cheque for the said sum in order to repay the said amount. The said cheque was presented for collection and the same was returned as 'funds insufficient'. After issuing statutory notice, the first respondent lodged a complaint.



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4. On the side of the petitioner, he has examined D.W.1 to D.W.5 and Ex.D.1 to Ex.D.3 were marked and on the side of the first respondent, he himself was examined as P.W.1 and also marked Exs.P.1 to P.7.

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 him to undergo one year rigorous imprisonment and imposed a fine of Rs.4,000/- (Rupees Four Thousand only) in default to undergo one month simple imprisonment. Aggrieved by the same, the petitioner preferred an appeal in Crl.A. No. 72 of 2007 on the file of the learned Sessions Judge, Kanyakumari at Nagercoil and the Appellate Court also dismissed the same confirming the order of the trial Court. Hence, the present revision.

6. The learned counsel for the petitioner would submit that now the first respondent died and he seeks time to implead the legal heirs of the



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first respondent.

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7.At the time of granting suspension of sentence, this Court imposed specific condition that the petitioner shall deposit a sum of Rs. 60,000/- to the credit of trial Court on or before 20.07.2018. However, the petitioner so far did not comply the said condition. When the petitioner did not make out any grounds to interfere in the concurrent findings of the Courts below, the request made by the petitioner cannot be considered and the revision is liable to be dismissed.

8.A perusal of the records reveals that the petitioner categorically admitted the signature and the issuance of cheque. Therefore, the respondent discharged his initial burden as contemplated under Section 138 of Negotiable Instruments Act. However, the petitioner failed to rebut the presumption and as such the Courts below rightly convicted the petitioner for the offence under Section 138 of Negotiable Instruments Act. This Court finds no infirmity or illegality in the order passed by the Courts below.



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9. Accordingly, this Criminal Revision Case is dismissed.

Consequently, connected miscellaneous petition is closed.

19.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
mrn

To

1. The Sessions Judge ,
Kanyakumari District at Nagercoil.

2. The Judicial Magistrate No.I,
Kuzhithurai, Kanyakumari.



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G.K.ILANTHIRAIYAN, J.

Mrn

Order made in
Crl.R.C(MD)No.340 of 2018

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