



Crl.R.C(MD)No.449 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.04.2023

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.449 of 2018

Gnanaprakasam

... Petitioner/
Appellant/Accused

Vs.

Alagiri

... Respondent/
Respondent/Complainant

PRAYER: Criminal Revision Case filed under Sections 397 r/w 401 and 482 of the Code of Criminal Procedure, to call for the entire records pertaining to the order of the learned I Additional District and Sessions Judge (PCR), Tiruchirappalli, dated 03.06.2018 made in Criminal Appeal No.113 of 2017, confirming the order of the learned Judicial Magistrate No.VI, Tiruchirappalli, dated 25.10.2017 made in S.T.C.No.117 of 2015 and set aside the same as illegal.

For Petitioner : Mr.T.Vadivelan

For Respondent : Mr.N.Balakrishnan



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ORDER

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This revision has been filed to set aside the order passed in Criminal Appeal No.113 of 2017, on the file of the learned I Additional District and Sessions Judge (PCR), Tiruchirappalli, dated 03.06.2018, confirming the order passed in S.T.C.No.117 of 2015 on the file of the learned Judicial Magistrate No.VI, Tiruchirappalli, dated 25.10.2017.

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.3,00,000/- as a loan for his family expenses on 04.08.2013. He also promised to repay the same within six months. In order to repay the said loan, he issued a cheque for the sum of Rs.3,00,000/-. The said cheque was presented for collection 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.4 and on the side of



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the petitioner, he himself was examined as D.W.1 and marked Exs.D.1 to D.5.

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 six months Simple Imprisonment and also ordered him to pay compensation of Rs.3,00,000/- to the respondent and in default of payment of the said amount, to undergo 3 months Simple Imprisonment. Aggrieved by the same, the petitioner preferred an appeal in Criminal Appeal No.113 of 2017, on the file of the learned I Additional District and Sessions Judge (PCR), Tiruchirappalli. The appellate Court also dismissed the appeal and confirmed the conviction and sentence imposed by the trial court. Hence, the present revision.

6.The learned counsel appearing for the petitioner would submit that while suspending the sentence this Court, by order dated 07.08.2018, imposed a condition that the petitioner shall deposit 50% of the cheque amount ie., a sum of Rs.1,50,000/-. Accordingly, the petitioner deposited the cheque amount to the



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credit of the trial Court and now the petitioner is also ready and willing to settle the remaining cheque amount within the time stipulated by this Court.

7.Considering the above submissions, the conviction imposed by the courts below is hereby confirmed. In so far as the sentence is concerned, it is set aside on condition that the petitioner shall deposit the remaining cheque amount of Rs.1,50,000/- on or before 15.05.2023 to the credit of S.T.C.No.117 of 2015 on the file of the learned Judicial Magistrate No.VI, Tiruchirappalli and on such deposit, the respondent is permitted to withdraw the entire amount which is deposited by the petitioner. If the petitioner failed to deposit the remaining cheque amount, the sentence imposed by the Courts below is 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 as against the petitioner in the manner known to law. Accordingly, this Criminal Revision Case is partly allowed.

11.04.2023

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



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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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G.K.ILANTHIRAIYAN, J.

ps

Order made in
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