



Crl.R.C.(MD).No.1014 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 12.07.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC(MD)No.1014 of 2022
and
Crl.MP(MD)No.12724 of 2022

S.Thenmozhi

... Petitioner/Appellant

Vs.

S.Radhakrishnan

... Respondent/Complainant

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records of the impugned Judgment of the Additional District Court FTC, Theni, passed in C.A.No.18 of 2022 dated 10.08.2022, set aside and restore the same and proceed the Criminal Appeal.

For Petitioner : Mr.S.Siva Ilayaraja

For Respondent : Mr.V.P.Rajan

ORDER

This Criminal Revision is filed to set aside the impugned Judgment of the Additional District Court FTC, Theni, passed in C.A.No.18 of 2022 dated 10.08.2022 and restore the same and proceed the Criminal Appeal.



Crl.R.C.(MD).No.1014 of 2022

WEB COPY

2. The case of the complainant is that the petitioner/accused has borrowed a sum of Rs.15,00,000/- from the complainant on 02.01.2014 towards Education expenses & expansion of house and agreed to repay the said amount. The petitioner has issued a cheque in favour of the complainant drawn on HDFC Bank, Madurai. On 03.02.2014, the complainant has presented the cheque for collection through the Canara Bank, Theni, and the same was returned on 04.02.2014 with reason as “Account Closed”. The complainant has then sent a legal notice dated 16.02.2014 to the petitioner demanding repayment of the amount covered by the cheque. The petitioner after receiving the notice, neither issued any reply notice nor come forward to pay the cheque amount and therefore, the complainant has filed a complaint for the offence under Section 138 of Negotiable Instruments Act.

3. The learned counsel appearing for the petitioner would submit that the petitioner has been convicted by the trial Court for the alleged offence under Section 138 of Negotiable Instruments Act and sentenced her to undergo one year simple imprisonment and to pay a compensation of Rs.15,00,000/- with an interest at the rate of 9% per annum within a period of two months, in default to undergo four months simple imprisonment as per the dictum laid down in R.Vijayan Vs. Baby & Another reported in 2012 1 SCC 260.



Crl.R.C.(MD).No.1014 of 2022

WEB COPY

4. Challenging the above said conviction and sentence, the petitioner has filed an appeal in Crl.A.No.18 of 2022 along with suspension of petition in Crl.MP.No.552 of 2022 before the learned Principal Sessions Judge, Theni. The learned Principal Sessions Judge, Theni, allowed the suspension of sentence petition with condition by directing the petitioner to pay 20% of compensation amount with 9% interest per annum i.e., Rs.5,16,074/- before the concerned Judicial Magistrate. Since the amount was not paid by the petitioner, the learned Principal Sessions Judge, Theni, dismissed the appeal. Challenging the same, she preferred the revision before this Court.

5.The learned counsel for the petitioner submitted that direction of the learned Principal Sessions Judge, Theni, has been complied with and the same was affirmed by the learned counsel for the respondent/complainant and both are requested this Court to allow the revision and remit the matter to the learned Principal Sessions Judge, Theni, for disposing C.A.No.18 of 2022 in accordance with law.

6.Considering the submission made on either side and the order passed by the learned learned Principal Sessions Judge, Theni, in Crl.MP.No.552 of 2022



Crl.R.C.(MD).No.1014 of 2022

has been complied with by the petitioner, this Court is inclined to allow this
Revision.

7.The impugned Judgment of the Additional District Court FTC, Theni, passed in C.A.No.18 of 2022 dated 10.08.2022, is hereby set aside and the Criminal Revision Petition is allowed. The learned Principal Sessions Judge, Theni, is directed to proceed the appeal in CA.No.18 of 2022 in accordance with law and dispose the same within a period of three months from the date of receipt of a copy of this order.

8.Accordingly, this Criminal Revision Case is allowed. Consequently, the connected miscellaneous petition is closed.

12.07.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
dss



WEB COPY



Crl.R.C.(MD).No.1014 of 2022

To

- 1.The Principal Sessions Judge,
Theni.
- 2.The Additional District Court FTC,
Theni.
- 3.The Section Officer,
Criminal Record,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.R.C.(MD).No.1014 of 2022

K.K.RAMAKRISHNAN, J.

dss

CrI.RC(MD)No.1014 of 2022
and
CrI.MP(MD)No.12724 of 2022

12.07.2023