



Crl.R.C(MD)No.521 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2023

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD)No.521 of 2018

N.Thangaraj

... Petitioner/
Appellant/Accused

Vs.

K.Senthilkumar

... 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 records relating to the Judgment made in C.A.No.2 of 2018, dated 06.03.2018 on the file of the learned Additional Sessions Judge, Karur, confirming the Judgment made in S.T.C.No.335 of 2011, dated 12.12.2017 on the file of the learned Judicial Magistrate, Fast Track Court, Karur.

For Petitioner : Mr.I.Velpradeep

For Respondent : Mr.S.Gokul Raj



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ORDER

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This revision has been filed to set aside the Judgment made in C.A.No.2 of 2018, dated 06.03.2018, on the file of the learned Additional Sessions Judge, Karur, confirming the Judgment made in S.T.C.No.335 of 2011, dated 12.12.2017, on the file of the learned Judicial Magistrate, Fast Track Court, Karur.

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 on 09.01.2004, the petitioner borrowed a sum of Rs.1,00,000/- from the respondent and also executed a pro-note. As per the pro-note, he agreed to pay interest at the rate of 1.25% per Rs.100/- for the loan borrowed by him. Thereafter, the petitioner failed to pay any interest and as such, the respondent demanded to repay the loan amount. In order to repay the said amount, he issued a cheque for the sum of Rs. 1,00,000/-. The said cheque was presented for collection and the same was returned dishonoured for the reason 'account closed'. After causing statutory notice, the respondent lodged the complaint.



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4.On the side of the respondent, he had examined P.W.1 and P.W.2 and also marked Exs.P.1 to P.8 and on the side of the petitioner, he had examined D.W.1 to D.W.3 and marked Exs.D.1 to D.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 six months Simple Imprisonment and also imposed a fine of Rs.2,000/- and in default of the fine amount, to undergo 30 days Simple Imprisonment. Aggrieved by the same, the petitioner preferred an appeal in C.A.No.2 of 2018 on the file of the learned Additional Sessions Judge, Karur. The appellate Court also dismissed the appeal and confirmed the conviction and sentence imposed by the trial court. Hence, the present revision.

6.While suspending the sentence this Court, by order dated 05.09.2018, imposed a condition that the petitioner shall deposit a sum of Rs.1,00,000/- to the credit of S.T.C.No.335 of 2011 on the file of the learned Judicial Magistrate, Fast Track Court, Karur. However, the petitioner so far did not comply with the same.



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7.The learned counsel appearing for the petitioner would submit that the petitioner is ready and willing to settle the entire cheque amount within a period of four weeks.

8.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 cheque amount of Rs.1,00,000/- on or before 29.05.2023 to the credit of S.T.C.No.335 of 2011, dated 12.12.2017, on the file of the learned Judicial Magistrate, Fast Track Court, Karur 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 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.

18.04.2023

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



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To

1.The Additional Sessions Judge,
Karur.

2.The Judicial Magistrate,
Fast Track Court, Karur.



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G.K.ILANTHIRAIYAN, J.

ps

Order made in
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18.04.2023