



Crl.R.C(MD)No.539 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.539 of 2018

K.Murugeswari

... Petitioner/
Appellant/Accused

Vs.

Malaichamy

... Respondent/
Respondent/Complainant

PRAYER: Criminal Revision Case filed under Sections 397 r/w 401 and 482 of the Code of Criminal Procedure, to allow the revision and set aside the conviction and sentence dated 04.08.2016 made in S.T.C.No.3 of 2013 on the file of the learned Judicial Magistrate No.II (Fast Track Court), Madurai, confirming the Judgment dated 25.07.2018 made in Crl.A.No.76 of 2016 on the file of IV Additional District and Sessions Judge, Madurai.

For Petitioner : Mr.C.Mayil Vahana Rajendran

For Respondent : Mr.T.Poovalingam



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ORDER

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This revision has been filed to set aside the conviction and sentence made in S.T.C.No.3 of 2013, dated 04.08.2016 on the file of the learned Judicial Magistrate No.II (Fast Track Court), Madurai, confirming the Judgment made in Crl.A.No.76 of 2016, dated 25.07.2018 on the file of IV Additional District and Sessions Judge, Madurai.

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 02.11.2011, the petitioner borrowed a sum of Rs.5,00,000/- for his urgent family expenses. In order to repay the same, the petitioner issued a cheque and the same was presented for collection. However, it was returned dishonoured for the reason 'funds insufficient'. 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.7 and on the side of the petitioner, no one was examined and no documents were produced.

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 awarded compensation to the tune of cheque amount. Aggrieved by the same, the petitioner preferred an appeal in Crl.A.No.76 of 2016 on the file of IV Additional District and Sessions Judge, Madurai. 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 24.09.2018, imposed a condition that the petitioner shall deposit a sum of Rs.1,00,000/- to the credit of S.T.C.No.3 of 2013 on the file of the learned Judicial Magistrate No.II (Fast Track



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Court), Madurai. Further, imposed condition that the petitioner shall deposit another sum of Rs.1,50,000/- within a period of four weeks after immediately coming out on bail. Both the conditions were duly complied with by the petitioner.

7.The learned counsel appearing for the petitioner would submit that the petitioner is ready and willing to settle the remaining cheque amount within the stipulated time fixed by this Court.

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 remaining cheque amount, namely a sum of Rs.2,50,000/- on or before 29.05.2023 to the credit of S.T.C.No.3 of 2013 on the file of the learned Judicial Magistrate No.II (Fast Track Court), Madurai and on such deposit, the respondent is permitted to withdraw the entire amount which is deposited by the petitioner by filing application before the trial Court. 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



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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

To

1.The Judicial Magistrate No.II,
(Fast Track Court),
Madurai.

2.The IV Additional District and Sessions Judge,
Madurai.



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G.K.ILANTHIRAIYAN, J.

ps

Order made in
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18.04.2023