



Crl.R.C.(MD).No.1171 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 25.07.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC(MD)No.1171 of 2022

M.Rajaprakash

... Petitioner/Respondent/Respondent

Vs.

J.Daisy

... Respondent/Petitioner/Appellant

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records relating to the order dated 26.09.2022 in Crl.M.P.No.5217 of 2022 in Crl.A.No.58 of 2022 on the file of the learned Principal Sessions Judge, Madurai, and set aside the same.

For Petitioner : Mr.V.R.Shanmuganathan

For Respondent : Mr.K.C.Ramalingam



Crl.R.C.(MD).No.1171 of 2022

ORDER

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This Criminal Revision is filed to set aside the impugned Judgment passed by the learned Principal Sessions Judge, Madurai, in Crl.M.P.No.5217 of 2022 in Crl.A.No.58 of 2022 dated 26.09.2022.

2.The petitioner is the complainant in STC.No.545 of 2019 on the file of the learned Judicial Magistrate, Melur.

3.According to the petitioner, the respondent borrowed a sum of Rs.7,00,000/- by executing a promissory note dated 02.11.2015. To discharge the said debt, she issued a cheque, dated 05.07.2019. The petitioner presented the same before his Bank and the same was returned with an endorsement 'Funds Insufficient' on 08.08.2019. Therefore, the petitioner issued the legal notice on 19.08.2019. Even though she received the same on 23.08.2019, she has not sent any reply and has not made any payment. In such circumstances, the petitioner initiated a proceedings under Section 138 Cr.P.C., before the learned Judicial Magistrate, Melur. The learned Judicial Magistrate taken the same on file in STC.No.545 of 2019.



Crl.R.C.(MD).No.1171 of 2022

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4. Thereafter, on receipt of the summons, the respondent appeared and contested the case. The learned Trial Judge after following the procedure, examined P.W.1 and perused the documents Ex.P.1 to Ex.P.7 and Ex.D.1 & Ex.D.2, passed the conviction under Section 138 of Negotiable Instruments Act and sentenced her to undergo 11 months Simple Imprisonment and to pay a compensation amount of Rs.17,00,000/- in default, to undergo 3 months Simple Imprisonment by the Judgment dated 18.08.2022.

5. Aggrieved over the same, the respondent filed Criminal Appeal in C.A.No.58 of 2022 before the learned Principal Sessions Judge, Madurai. During the pendency of the appeal, the respondent filed Crl.M.P.No.5217 of 2022 seeking suspense of sentence imposed upon her by the trial Court. That petition was allowed by the learned Appellate Judge by the order dated 26.09.2022. Aggrieved against the same, the petitioner/complainant preferred this revision before this Court.

6. The learned counsel for the petitioner submitted that it is the duty of the learned Appellate Judge to grant suspension of sentence on condition to deposit 20% of the compensation amount as per the provision. He further submitted that



Crl.R.C.(MD).No.1171 of 2022

the learned Appellate Judge failed to consider the special circumstances of the case that the complainant and the accused are contesting the case and the trial Court has already convicted the respondent.

7.At this juncture, the learned counsel for the respondent submitted that the respondent is ready to deposit 20% of the compensation amount and also ready to co-operate to dispose the appeal. Further, he made a request that this Court may be given a direction to the trial Court to dispose the case within a specific time frame.

8. In view of the submission made by the learned counsel for the respondent that now the respondent is ready to deposit 20% of the compensation amount and also ready to co-operate to dispose the appeal, this Court is inclined to allow this Revision with the following terms:-

The respondent is directed to deposit 20% of the compensation amount to the credit of STC.No.545 of 2019 on the file of the learned Judicial Magistrate, Melur, within a period of 4 weeks from the date of receipt of a copy of this order. The learned Principal Sessions Judge, Madurai, is directed to dispose the appeal in Crl.A.No.58 of 2022 within a period of two months thereafter.



Crl.R.C.(MD).No.1171 of 2022

WEB COPY

9. Accordingly, the order passed by the learned Principal Sessions Judge, Madurai, in Crl.M.P.No.5217 of 2022 in Crl.A.No.58 of 2022 dated 26.09.2022, is hereby, set aside and the Criminal Revision Case is allowed.

25.07.2023

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

To

1. The Principal Sessions Judge,
Madurai.
2. The Section Officer,
Criminal Record,
Madurai Bench of Madras High Court,
Madurai.



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Crl.R.C.(MD).No.1171 of 2022

K.K.RAMAKRISHNAN, J.

dss

CrI.RC(MD)No.1171 of 2022

25.07.2023