



Crl.R.C.No.396 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.02.2025

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.396 of 2021

A.Kosaharajan

... Petitioner

Vs.

J.P.Vikas Dughar  
Rep.by his Power Agent  
P.Vikram Dughar`

... Respondent

PRAYER: Criminal Revision is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to set aside the Judgment dated 12.02.2021 made in Crl.A.No.207 of 2019 by the learned XVI Additional District and Sessions Court, Chennai and consequently set aside the conviction and sentence imposed upon by the learned Metropolitan Magistrate, Fast Track Court-IV, George Town, Chennai in C.C.No.1178 of 2017 by its Judgment dated 23.04.2019.

For Petitioner : Mr.C.V.Kumar

For Respondent : Ms.Abinumonisha

ORDER

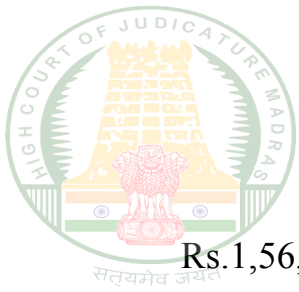
The petitioner/accused in C.C.No.1178 of 2017, was convicted by the trial Court vide judgment dated 23.04.2019 on the complaint filed by the



respondent for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo ten months simple imprisonment and to pay a compensation of Rs.1,70,580/- with an interest of 9% per annum from the date of dishonoured cheque. Aggrieved by the same, the petitioner preferred an appeal before the Sessions Court in C.A.No.207 of 2019.

2. The XVI Additional District and Sessions Court, by judgment dated 12.02.2021, dismissed the appeal with modification, taking into account that Rs.51,300/- had not to be deducted, which was paid as hire charges, and also giving credit for the amount of Rs.34,116/-, which was paid during the pendency of the appeal. Finally, the petitioner was directed to pay a sum of Rs.1,36,464/- as compensation. Against which, the present revision has been filed.

3. The learned counsel appearing for the petitioner submitted that the cheque, Ex.P4, is a security cheque. The petitioner had availed financial assistance for the purchase of a vehicle and entered into a hire purchase agreement, and at that time, the cheque, Ex.P4, was given as security. The amount advanced was only Rs.1,20,000/-, and interest was due to the tune of

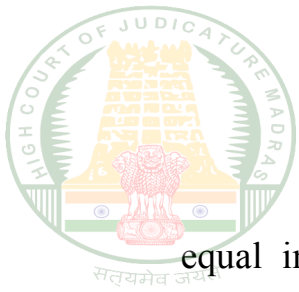


Rs.1,56,000/-, but the petitioner paid a sum of Rs.51,300/-. The cheque amount, as projected, has not been the correct amount. The respondent/complainant has not credited the interest paid. Hence, the petitioner disputes the very cheque.

4. The respondent, being the financier, took advantage of the cheque given in security and falsely projected and lodged the complaint against the petitioner and filed the above case. The lower appellate Court found that the trial Court had not considered Ex.P2 and also the interest amount of Rs.51,300/- paid by the accused. The lower appellate Court rightly held that the compensation order passed by the trial Court, directing the petitioner to pay Rs.1,70,580/- with interest, was not proper. Thereafter, the lower appellate Court partly allowed the appeal, set aside the sentence and directed the petitioner to pay the compensation amount of Rs.1,36,464/- with interest.

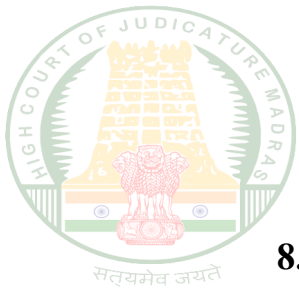
5. The learned counsel appearing for the respondent/complainant submitted that the petitioner has not disputed the cheque, Ex.P4, or the signature. To prove his case, the respondent examined himself as PW.1 and marked Ex.P1 to Ex.P7.

6. The accused to pay monthly EMI of Rs.10,400/- to be paid in 15



equal instalments. Further, the respondent had paid four instalments, i.e., Rs.51,300/-, and the petitioner purchased the vehicle bearing No.TN-09-AV-4731, Indica car. The respondent also produced the ledger account, Ex.P3, to show his bonafide that he had received Rs.51,300/-, and the balance amount had to be paid. Hence, a due amount of Rs.1,00,700/- to be paid. The cheque given in discharge of liability. The cheque Ex.P4, was presented, and the same was returned for the reason "insufficient funds." after statutory notice, which was received by the respondent, but failed to pay the cheque amount.

7. The respondent neither sent a reply nor paid the demanded cheque amount. Hence complaint filed, examined witnesses and produced documents. The trial Court, as well as the lower appellate Court, found the petitioner in discharge of liability and issued the cheque. The trial Court rightly convicted the petitioner. The lower appellate Court gave credit for the 4 months' EMI and reduced the compensation amount. The petitioner at each stage gives reasons and buys time and not paid any amount. The respondent prayed that the conviction passed by the trial Court for 10 months to be restored, and the petitioner sent to jail to serve the conviction of jail sentence.



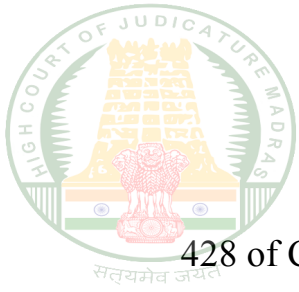
8. Considering the submissions and perusal of the materials, it is

seen that the cheque issued and received by the petitioner is not in dispute.

The cheque, as well as the signature, is not disputed. The petitioner purchased a car on hire purchase, availing financial assistance from the respondent. The hire purchase agreement is for 15 months EMI, petitioner paid for four months, which is recorded in Ex.P3. Considering the same, the lower appellate Court reduced Rs.51,300/-. In view of the above, the lower appellate Court directed the petitioner to pay Rs.1,36,464/- as compensation, which is not complied. The petitioner, though convicted by the two Courts below, has not shown inclination to comply the Court's directions.

9. In the result, this ***Criminal Revision Case is partly allowed*** with the modification of the sentence to the effect that the accused shall pay the compensation of Rs.1,36,464/- to the respondent, with interest within 30 days from today, failing which he shall undergo 3 months Simple Imprisonment.

10. The trial Court is directed to secure the petitioner/accused and commit him to prison to undergo the remaining period of sentence. The period of sentence already undergone by the accused shall be set off under Section



CrI.R.C.No.396 of 2021

428 of Cr.P.C.

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18.02.2025

Speaking order/Non-speaking order

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

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To

1.The XVI Additional District and Sessions Court, Chennai

2.The Metropolitan Magistrate, Fast Track Court-IV, George Town, Chennai

M.NIRMAL KUMAR, J.



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