

Petitioner Vs. Respondent

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Court : Chennai

Decided On : Apr-28-2016

Judge : M. Venugopal

Appeal No. : Cr.M.P.No. 5000 of 2016 in CrI.R.C.No. 698 of 2016

Appellant : Petitioner

Respondent : Respondent

Judgement :

M. Venugopal, J.

1. Heard the Learned counsel for the Petitioner/Appellant/Accused.

2. The Petitioner/Appellant has projected the present Criminal Revision Petition before this Court as against the judgment dated 27.11.2015 in C.A.No.112 of 2015 passed by the Learned V Additional District and Sessions Judge, Coimbatore in dismissing the Appeal and thereby, confirming the judgment dated 24.04.2015 in C.C.No.284 of 2013 passed by the Learned Judicial Magistrate, Fast Track Court-I, Magisterial Coimbatore, sentencing her to undergo one year Simple Imprisonment under Section 138 of N.I. Act, 1882 and also, directed her to pay a compensation of Rs.3,25,000/- to the Complainant, within a period of two months in terms of Section 357(3) of Cr.P.C., failing which, the Petitioner/Accused was directed to undergo default sentence of 3 months S.I.

3. The Learned counsel for the Petitioner in this Criminal Revision Petition challenges the impugned judgment dated 27.11.2015 in C.A.No.112 of 2015 passed by the Appellate Court by taking a prime plea that the Appellate Court had confirmed the conviction and sentence imposed by the trial Court based on the evidence of P.W.1, but in reality, the evidence of documents available on record are quite contradictory to each other and these pivotal aspects are not borne in mind by the Appellate Court, which had resulted in serious miscarriage of justice.

4. The Learned counsel for the Petitioner/Appellant projects an argument that the Complainant in the instant case had failed to establish that he had the source of income on 10.05.2012 to lend such a huge sum of Rs.3,25,000/- to the Petitioner/Accused but this aspect was not taken into account by the Appellate Court at the time of passing the impugned order in C.A.No.112 of 2015.

5. The Learned counsel for the Petitioner/Appellant brings it to the notice of this Court that the trial Court as well as the Appellate Court had not considered the defence of the Petitioner/Appellant/Accused in the cross examination of P.W.1 to the effect that there was no transaction between the Petitioner and the Complainant and also that, the Complainant's sister and parents were having financial transaction with the Accused. As such, the Petitioner/Appellant/Accused is not having any legal obligation/liability to and in favour of the Complainant. As a matter of fact, the alleged cheque was taken by the Complainant in an illegal manner from the house of the Petitioner/Accused along with some other documents.

6. It is not in dispute that the Petitioner/Appellant/Accused has exercised the procedural facility in preferring the Criminal Revision Petition before this Court as an aggrieved person as envisaged under Cr.P.C.

7. It is also represented on behalf of the Petitioner/Accused that the Petitioner/Accused is ready and willing to deposit a sum of Rs.80,000/- towards compensation from and out of the compensation amount of Rs.3,25,000/- awarded in the instant case.

8. At this juncture, this Court has perused the various grounds set out by the Petitioner in the memorandum of grounds of Revision and is of the considered view that the same are to be looked into at the time of final disposal of the main Criminal Revision Petition since they are to be deliberated upon and require an elaborate consideration in the hands of this Court.

9. In view of the fact that the Petitioner has preferred the present Criminal Revision before this Court and also, this Court keeping in mind yet another primordial fact that the present Criminal Revision Petition is not likely to be heard in the immediate future and further, taking note of the attendant facts and circumstances of the case in an integral manner, at this stage, is inclined to suspend the substantial sentence of imprisonment alone subject to payment of Rs.80,000/- by the Petitioner/Accused to the credit of C.C.No.284 of 2013 before the trial Court prior to her release on bail and on payment of the said sum, orders the release of the Petitioner/Accused on her executing a bond for a sum of Rs.15,000/- (Rupees Fifteen thousand only) with two sureties each for a likesum to the satisfaction of the Learned Judicial Magistrate, Fast Track Court-I, Magisterial Level, Coimbatore and on further condition that she shall appear before the said Court on the First Working day of every English calendar month at 11.00 A.M. (Noon) without fail till the disposal of the Criminal Revision Petition.

10. This Miscellaneous Petition is ordered accordingly.

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