

Petitioner Vs. Respondent

Petitioner Vs. Respondent

SooperKanoon Citation : sooperkanoon.com/1191061

Court : Chennai

Decided On : Apr-27-2016

Judge : M. Venugopal

Appeal No. : Crl.M.P.No. 4973 of 2016 in Crl.R.C.No. 695 of 2016

Appellant : Petitioner

Respondent : Respondent

Judgement :

M. Venugopal, J.,

1. Heard both sides.

2. The Petitioner/Appellant/Accused has focused the instant Criminal Revision Petition as against the judgment dated 22.01.2016 in C.A.No.141 of 2015 passed by the Learned I Additional Sessions Judge, Erode, in dismissing the Appeal and thereby, confirming the judgment in S.T.C.No.100 of 2013 dated 06.10.2015 passed by the Learned Judicial Magistrate, Fast Track Court-I, Erode.

3. The Petitioner/Appellant has filed the present Miscellaneous Petition praying for passing of an order by this Court to suspend the execution of sentence of 6 months S.I. dated 06.10.2015 passed by the trial Court in S.T.C.No.100 of 2013, which has been confirmed by the Appellate Court vide judgment dated 22.01.2016 in C.A.No.141 of 2015.

4. It comes to be known that the trial Court in S.T.C.No.100 of 2013 by means of judgment dated 06.10.2015 had convicted and sentenced the Petitioner/Accused to undergo S.I. for 6 months and also, directed him to pay a fine of Rs.5000/-, in default of payment of the said fine amount, further directed him to undergo 15 days S.I. in respect of the offence under Section 138 of the N.I. Act.

5. The Learned counsel for the Petitioner/Appellant/Accused urges before this Court that the judgment of the trial Court as well as the Appellate Court are against Law, unjust and they had resulted in serious miscarriage of justice.

6. The Learned counsel for the Petitioner/Appellant projects an argument that the trial Court as well as the Appellate Court had passed the judgment in the subject matter in issue, overlooking the material evidence, both oral and documentary, available on record.

7. The stand of the Petitioner/Appellant is that both the Courts below had failed to appreciate the fact that the complainant had not proved that the Petitioner/Accused had borrowed a sum of Rs.5,00,000/- as hand loan from the complainant on 09.11.2012, paid interest of Rs.5000/- on the same day and issued Ex.P1/Cheque dated 10.12.2012 for Rs.5 lakhs to discharge the said loan as falsely claimed by the complainant in the light of Ex.P3/Notice.

8. The Learned counsel for the Petitioner/Appellant proceeds to contend that in the instant case, the Petitioner/Appellant had established that Ex.P1/Cheque was secured by the complainant from the Petitioner/Accused as a blank cheque with the signature of the accused as security in respect of a loan of Rs.50,000/- obtained from the complainant during the year 1997.

9. It is represented on behalf of the Petitioner/Appellant that the fine amount of Rs.5000/- was paid by the Petitioner/Appellant before the trial Court itself.

10. Inasmuch as the Petitioner/Appellant/Accused has exercised his right of procedural facility of filing the present Revision Petition before this Court, as envisaged under Cr.P.C., and also, this Court bearing in mind yet another primordial fact that the present Criminal Revision Petition is not likely to be heard

in the near future and further, taking note of the entire conspectus of the attendant facts and circumstances of the present case which float on the surface, is inclined to suspend the substantial sentence of imprisonment alone and directs the release of the Petitioner/Accused on his 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, Erode and on further condition that he shall appear before the said Court on the First Working day of every English calendar month at 11.00 A.M. without fail until further orders.

11. This Miscellaneous Petition is ordered accordingly.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com