

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 259 OF 2020
(Arising out of SLP (CRL.)No.6940 of 2019)

R. MANIMEHALAI

Appellant(s)

VERSUS

BANUMATHI

Respondent(s)

O R D E RR. BANUMATHI, J.:

Leave granted.

(2) Being aggrieved by the dismissal of criminal revision, Cr1.R.C.(MD)NO.854 of 2017, in and by which the Madurai Bench of Madras High Court has affirmed the conviction of the appellant under Section 138 of the Negotiable Instruments Act and sentencing her to undergo simple imprisonment for four months and imposing fine amount of Rs.2,000/- the appellant has filed this appeal.

(3) Case of the respondent-complaint is that on 25.11.2013, the appellant-accused borrowed a sum of Rs.7,00,000/- (Rupees Seven Lakhs) from the respondent-complainant agreeing to repay the same within two months. To discharge the said liability, the appellant issued gave a cheque bearing No.111825 dated 26.12.2013 (Ex.-P1) for a sum of Rs.7,00,000/- in favour of the respondent-complainant. The said cheque when presented before the Bank for collection/clearance, the same was dishonoured by

memo/remarks "insufficient funds" and "signature of the drawer differs" (Ex.P2). The respondent-complainant got issued a legal notice (Ex.P3) dated 31.12.2013 to the appellant which was received by the appellant vide acknowledgement (Ex.P4). The appellant sent a reply dated 17.03.2014 (Ex.P5) repudiating the debt. The respondent-complainant thereafter lodge the complaint under Section 138 of the N.I. Act. The appellant entered appearance and contended that the said cheque was not issued to discharge any legally enforceable debt. The appellant also claimed that in connection with a mortgage the appellant's father-in-law and brother-in-law borrowed a sum of Rs.3,00,000/- from one Malliga, sister of the complainant and in that regard they have executed a mortgage in favour of the respondent-complainant's sister. According to the appellant, she issued a blank cheque as a security for the said mortgage debt given by said Malliga.

(4) Before the Trial Court, the respondent-complainant examined herself as PW-1. Upon consideration of the evidence of PW-1 and other documentary evidence, the Trial Court held that the cheque was issued by the appellant for the debt owed by her to the respondent-complainant and accordingly convicted the appellant under Section 138 of the N.I. Act and sentenced her to undergo simple imprisonment for four months and also impose fine amount of Rs.2,000/- with default clause.

(5) Criminal Appeal NO.104 of 2017 preferred by the appellant was dismissed by the Additional Sessions Judge, Karur, vide judgment dated 11.09.2017. The revision preferred by the

appellant also came to be dismissed by the High Court as aforesaid. Being aggrieved, the appellant has preferred this appeal.

(6) We have heard Mr. Rajeev Maheshwaranand Roy, learned counsel appearing for the appellant and Mr. Senthil Jagadeesan, learned counsel appearing for the respondent-complainant and also perused the impugned judgment and the evidence/materials on record.

(7) Having regard to the submissions and on considering the evidence of PW-1, other documentary evidence and the concurrent findings recorded by the courts below, we are not inclined to interfere with the conviction of the appellant under Section 138 of the N.I. Act and the same is affirmed. So far as the sentence of imprisonment of four months imposed on the appellant is concerned, it is seen that the appellant being a woman has already undergone more than one month of sentence. The cheque was issued way back in the year 2013. Considering the facts and circumstances of the case, we deem it appropriate to modify the sentence of imprisonment and limit it to refund of the cheque amount of Rs.7,00,000/- (Rupees Seven Lakhs) as compensation. Ordered accordingly.

(8) Pursuant to Order of this Court dated 05.08.2019, the appellant has already deposited a sum of Rs.3,00,000/- (Rupees Three Lakhs) before Judicial Magistrate, Fast Track Court, Karur, which the respondent-complainant is permitted to withdraw. The appellant shall pay the balance amount of compensation of Rs.4,00,000/- (Rupees Four Lakhs) directly to

the respondent in installments with proper acknowledgement/receipt as under.

(9) Rs.1,00,000/- (Rupees One Lakh) shall be paid by the end of April 2020 and thereafter the remaining amount of Rs.3,00,000/- (Rupees Three Lakhs) shall be paid in six equal installments of Rs.50,000/- p.m. Each of the installments shall be paid by the end of the every succeeding calendar month.

(10) In case of default, the appellant to undergo the remaining sentence of imprisonment.

(11) With the above said modification, the appeal is partly allowed.

.....J.
(R. BANUMATHI)

.....J.
(A.S. BOPANNA)

NEW DELHI,
FEBRUARY 10, 2020.

ITEM NO.45

COURT NO.5

SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Cr1.) No(s). 6940/2019

(Arising out of impugned final judgment and order dated 06-02-2018 in CRLRC No. 854/2017 passed by the High Court Of Judicature At Madras At Madurai)

R. MANIMEHALAI

Petitioner(s)

VERSUS

BANUMATHI

Respondent(s)

(FOR ADMISSION and Interim Relief and
IA No.111198/2019-EXEMPTION FROM FILING O.T.)

Date : 10-02-2020 This matter was called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE R. BANUMATHI
HON'BLE MR. JUSTICE A.S. BOPANNA

For Petitioner(s) Mr. Rajeev Maheshwaranand Roy, AOR
Mr. P. Srinivasan, Adv.
Ms. Gunjan Kumar, Adv.

For Respondent(s) Mr. Senthil Jagadeesan, AOR
Ms. Sonakshi Malhan, Adv.
Ms. Suriti Chowdhary, Adv.
Ms. Mrinal Kanwar, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

In terms of the signed non-reportable order, the appeal is partly allowed.

Pending applications, if any, shall also stand disposed of.

(MAHABIR SINGH)
AR-cum-PS

(BEENA JOLLY)
BRANCH OFFICER

(Signed non-reportable order is placed on the file)