

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case Nos.1319 and 1320 of 2014
and

M.P.Nos.2 and 3 of 2014
(in each of the petitions)

G.G.Hari

Proprietor-M/s.Vani Greeters

No.66, Jain Bhawan I Floor

(Near Andhra Bank)

Pondy Bazaar, T.Nagar

Chennai-17.

.. Petitioner in both the revisions

vs

Mrs.Radhamma

rep.by her Power Agent

Mrs.Sasikala

.. Respondent in Crl.R.C.No.1319
of 2014

Mrs.Sasikala

.. Respondent in Crl.R.C.No.1320
of 2014

Criminal Revision cases filed under Sections 397 and 401 of Cr.P.C. against the common judgment dated 19.11.2014 passed by the learned XV Additional Sessions Judge, Chennai in C.A.Nos.213 and 214 of 2013 in confirming the conviction and sentence imposed by the the learned Metropolitan Magistrate, Fast Track Court-I (Magisterial Level), Egmore, Chennai dated 10.09.2013 in C.C.Nos.6627 and 6628 of 2003 respectively.

For Petitioner : Mr.A.M.Rahamath Ali
in both the cases

For Respondents : Mr.S.Venkataswamy Babu
in both the cases

COMMON ORDER

The petitioner has come forward with these Criminal Revision cases against the common judgment dated 19.11.2014 passed by the learned XV Additional Sessions Judge, Chennai in C.A.Nos.213 and 214 of 2013 in confirming the conviction and sentence as well as the

compensation imposed by the learned Metropolitan Magistrate, Fast Track Court-I (Magisterial Level), Egmore, Chennai dated 10.09.2013 in C.C.Nos.6627 and 6628 of 2003 respectively.

2. The case in brief is as follows:

The respondents/defacto complainants preferred private complaints in C.C.Nos.6627 and 6628 of 2003 on the file of the learned Metropolitan Magistrate, Fast Track Court at Magisterial Level-1, Egmore, Chennai as against the petitioner/accused herein for the alleged offence under Section 138 of the Negotiable Instruments Act. It is alleged in the complaint that the petitioner/accused along with two others borrowed money from the complainant for business purposes and issued Cheque No.559704 dated 02.01.2003 for a sum of Rs.1,00,000/- [C.C.No.6627 of 2003] and two more Cheques bearing Nos.559759 dated 12.12.2002 for a sum of Rs.1,00,000/- and 559703 dated 02.01.2003 for Rs.10,000/- [C.C.No.6628 of 2003] drawn on Andhra Bank, T.Nagar Branch, Chennai; when the cheques were presented for collection, the same were returned with the endorsement "Account closed". Therefore, the respondents/defacto complainants issued legal notice under Section 138 of the Negotiable Instruments Act calling upon the petitioner/accused to pay the cheque amount within 15 days. Since there was no response, the above complaints have been preferred.

[b] The trial Court after hearing both sides, convicted the petitioner/accused in both the cases and imposed sentences as under:

Offence	Sentence Imposed	Fine amount/ Compensation
C.C.No.6627/2003 - 138 of the Negotiable Instrument Act.	One year simple imprisonment	To pay Rs.1,00,000/- as compensation to the complainant within three months, in default to undergo three months simple imprisonment
C.C.No.6628/2003 - 138 of the Negotiable Instrument Act.	One year simple imprisonment	To pay Rs.1,10,000/- as compensation to the complainant within three months, in default to undergo three months simple imprisonment

The petitioner/accused preferred appeals before the learned XV Additional Sessions Judge, Chennai for nothing but to be dismissed by the first appellate Court confirming the conviction and sentence as well as the compensation imposed by the trial Court.

[c] Challenging the said common judgment, the petitioner/accused is before this Court in these Criminal Revision Cases.

3. Learned counsel for the petitioner, though initially, submitted that there are several infirmities and inconsistencies found in the prosecution case and made elaborate arguments, would now fairly submit that the petitioner is willing to repay the cheque amounts along with interest that may be fixed by this Court as he is undergoing a terminal period due to his illness and his family members are also to show their bona fides is ready to pay back the money to the complainants. He would only contend that the petitioner may be given three months' time to pay the entire amount.

4. Learned Counsel for the respondents/de facto complainants, did not agree, at the first instance, for the above submission made by the learned counsel for the petitioner. He would only contend that both the Courts have concurrently held and found that the cheques were given only for the debt incurred by the petitioner/accused and the same were returned as Account Closed. Accordingly, he would pray for the dismissal of the above criminal revision cases.

5. I have heard both sides and perused the materials available on record. By consent of the learned counsel on either side, both the criminal revision cases are taken up for final disposal.

6. On a perusal of the judgment passed by the Courts below, it is seen that both the Courts below have concurrently held that the petitioner has given the cheques for the amount borrowed by him from the complainant and had failed to honour the same. Under law, the petitioner is liable to pay the debts and accordingly both the Courts below have convicted the petitioner and imposed the sentence and also ordered to pay the compensation amount. However taking into consideration the subsequent conduct of the petitioner and also the fact that the petitioner is suffering from severe ill-health and that he is now offering to pay the amount, without setting aside the judgment of both the Courts below, this Court only modifies the order to the limited extent of paying the compensation amount, including the original cheque amount the petitioner/accused shall pay a sum of Rs.4,50,000/- [Rupees four lakhs and fifty thousand only] including the original cheque amount in lieu of the dishonoured cheque amounts of Rs.1,00,000/- and Rs.1,10,000/-. Such compensation shall be paid by the petitioner/accused within a period of three months from today, i.e. on or before 20.07.2015. The petitioner/accused shall pay the amount now ordered by this Court either directly to the respective de facto complainants or to the credit of C.C.Nos.6627 and 6628 of 2003 on the file of the learned Metropolitan Magistrate, Fast Track Court at Magisterial Level-1, Egmore, Chennai. The petitioner/accused shall also file an affidavit of undertaking before this Court on or

before 24.04.2015 to the above effect. It is made clear that, if the petitioner fails to comply with the conditions imposed, this order will not enure to the benefit of the petitioner.

7. With the above direction, both these criminal revision cases are disposed of. Consequently, the connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar(LA)

True Copy

Sub-Assistant Registrar

To

1. The XV Additional Sessions Judge, Chennai
 2. The Metropolitan Magistrate, Fast Track Court-I
(Magisterial Level), Egmore, Chennai
 3. The Public Prosecutor, High Court, Madras
- + 2 ccs to Mr.Venkatasamy Babu, Advocate SR 21333
- + 2 ccs to Mr.A.M.Rahamath Ali, Advocate SR 21284

kji(Co)
prk23/4

Cr1.RC.Nos. 1319 and 1320 of 2014

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