



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2020

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.R.C. (MD) .No.276 of 2010

Rajkumar

.. Petitioner/Accused

Vs.

1. K.Bagawathy

2. The State Rep.by
The Public Prosecutor,
Nagercoil, through S.I. Of Police,
Vadasery Police Station.

.. Respondents/Complainants

PRAYER: This Criminal Revision has been filed under Sectionw397 r/w 401 of Cr.P.C, to call for the records and set aside the judgment and sentence dated 21.12.2006 in S.T.C.No.4381 of 2003, on the file of the Honourable Judicial Magistrate No.II, Nagercoil, as confirmed by the Judgment dated 17.03.2010 in C.A.NO.7 of 2007, on the file of the Honourable Sessions Judge, Kanyakumari Division, Nagercoil.

For Petitioner : Mr.G.Prabu Rajadurai
For R1 : Mr.N.Dilipkumar
For R2 : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

O R D E R

The Criminal Revision Petition has been filed seeking to set aside the judgment passed by the learned Sessions Judge, Kanyakumari Division, Nagercoil, dated 17.03.2010 in C.A.NO.7 of 2007, confirming the judgment dated 21.12.2006 in S.T.C.No.4381 of 2003 on the file of the learned Judicial Magistrate No.II, Nagercoil.

2. The facts of the case are briefly stated hereunder:-

The case of the prosecution is that on 19.09.2003, the petitioner borrowed a sum of Rs.4,00,000/- from the first respondent. The petitioner issued cheque to the first respondent for discharge of his liability. When the first respondent presented the cheque before the Bank for collection, the same was returned on 04.06.2003 with an endorsement as 'account closed'. Therefore, after causing statutory notice as required under the Act, he filed a



complaint before the trial Court as against the accused for the offence under Section 138 of Negotiable Instruments Act.

3.The learned Judicial Magistrate No.II, Nagercoil by judgment dated 21.12.2006, convicted the petitioner for the offence under Section 138 of Negotiable Instruments Act and sentenced him to undergo Six months Simple Imprisonment and to pay a fine of Rs.5,000/- in default to undergo two months Simple Imprisonment.

4.Aggrieved over the same, the petitioner preferred an appeal in C.A.No.7 of 2007, before the learned Sessions Judge, Nagercoil and the same came to be dismissed by judgment dated 17.03.2010, confirming the conviction and sentence imposed by the learned Judicial Magistrate No.II, Nagercoil. As against which, he has filed this present revision.

5. It is submitted that when the revision came up for admission on 15.04.2010, the petitioner was directed to deposit a sum of Rs.1 lakh before the trial Court. In pursuant to the same, on 26.04.2010, the petitioner had deposited a sum of Rs.1 lakh, before the learned Judicial Magistrate No.II, Nagercoil and the receipt of the same has been produced.

6.During the pendency of the revision, in respect of the cheque amount involved in this case, the petitioner/accused and the respondent/complainant had come to settle the issue. The disputed amount is Rs.4 lakhs, out of which, a sum of Rs.1 lakh has been paid before the trial Court.

7.In view of the above,

(i) The respondent/complainant is permitted to withdraw the said amount with accrued interest.

(ii) Today, a demand draft of Punjab National bank, dated 14.02.2020 drawn for a sum of Rs.2,60,000/- had been handed over to the respondent/complainant, which had been admitted by both the petitioner/accused and the respondent/complainant. They have also filed a compounding petition under Section 147 of Negotiable Instruments Act, to compound the offence. Accordingly, the petitioner is permitted to compound the offence.

8.The learned Judicial Magistrate No.II, Nagercoil is directed to hand over the amount of Rs.1 lakh paid by the petitioner/accused dated 26.04.2010 along with accrued interest to the respondent/complainant.



9.The photostat copy attested by the respondent/complainant and his counsel is handed over to the petitioner. Further, the petitioner/accused would submit that he would not make any claim for the amount and the amount would be credited in discharge of his liability.

10.This Criminal Revision Petition is allowed on the above terms. The judgment dated 21.12.2006 in S.T.C.No.4381 of 2003, on the file of the learned Judicial Magistrate No.II, Nagercoil, confirmed by the learned Sessions Judge, Kanyakumari Division, Nagercoil, dated 17.03.2010 in C.A.NO.7 of 2007, is set aside.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate No.II, Nagercoil.
2. The Sessions Judge, Kanyakumari District, Nagercoil.
3. The Additional Public Prosecutor, Madurai Bench of Madras High Court, Madurai.

Copy To :-

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-6810[F] dated 18/02/2020)
+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-6961[F] dated 18/02/2020)

DAS

TE : 18/03/2020 : 3P/8C

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