



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.11.2021

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.R.C.No.1087 of 2020 and
CrI.M.P.Nos.7587 & 7589 of 2021
and CrI.M.P.No.11872 of 2021

M.Ravi

...Petitioner/ Accused

-Vs-

M.Sakthivel

...Respondent/ Complainant

Criminal Revision Case filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the judgment dated 12.10.2020 passed in C.A.No.69 of 2019 by the learned Principal District and Sessions Judge, Namakkal, confirming the order passed by the learned Judicial Magistrate (FTC), Tiruchengode in S.T.C.No.256 of 2018 dated 08.11.2019.

For Petitioner : Mr.S.N.Subramani

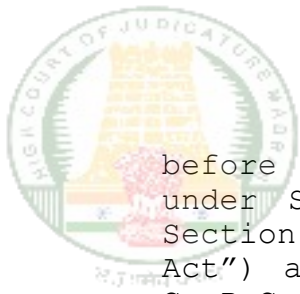
Respondent : Mr.R.Venkatesh

ORDER

This criminal revision has been filed against the judgment dated 12.10.2020 passed in C.A.No.69 of 2010 by the learned Principal District and Sessions Judge, Namakkal, confirming the judgment of conviction and sentence passed by the learned Judicial Magistrate (FTC), Tiruchengode, in S.T.C.No.256 of 2018 dated 08.11.2019 and to acquit the petitioner/accused.

2 For the sake of the convenience, the petitioner and the respondent are referred to as the accused and complainant respectively.

3 It is the case of the complainant that the accused is known to him and he had borrowed an amount of Rs.1,50,000/- from the complainant for his urgent expenses on 10.04.2018 and to discharge the liability, the accused had issued a cheque bearing No.083919 dated 09.05.2018 for Rs.1,50,000/- drawn at AXIS Bank, Tiruchengodu Branch in favour of the complainant. When the cheque had been presented for collection, it had been returned by the bankers of the accused with a return memo stating that 'account closed' on 11.05.2018. Thereafter the complainant had issued statutory legal notice dated 24.05.2018 by demanding the amount due within 15 days. The notice had been received by the accused on 07.06.2018 and the accused neither replied nor made the payment. Hence the complainant had preferred the complaint



before the learned Judicial Magistrate (FTS), Tiruchengode, under Section 200 of Cr.P.C for the offence punishable under Section 138 of the Negotiable Instruments Act (in short "NI Act") and also prayed for compensation under Section 357(3) of Cr.P.C.

4 On the side of the complainant, he had examined himself as P.W.1 and marked Exs.P1 to P5. The accused had not let in any evidence orally or filed any documentary evidence. The trial Court found the accused guilty for the offence under Section 138 of NI Act and sentenced him to undergo simple imprisonment for a period of six months and also directed him to pay Rs.1,50,000/- as compensation to the complainant. Against the conviction and sentence, the accused had preferred an appeal in C.A.No.69 of 2019 on the file of the learned Principal District and Sessions Judge, Namakkal, and the appellate Court dismissed the appeal and confirmed the order passed by the trial Court. Challenging the judgment passed by both the Courts below, petitioner has preferred the revision before this Court.

5 During pendency of the revision, the complainant and the accused had arrived at a compromise and filed a criminal miscellaneous petition in Crl.M.P.No.11872 of 2021 seeking to compound the offence.

6 Mr.S.N.Subramani, learned counsel for the petitioner/accused would submit that the parties have compromised the matter pursuant to which, they have arrived at a compromise and they have also filed a compromise memo before this Court to that effect. He would further submit that though cheque amount is Rs.1,50,000/-, the parties have mutually agreed to settle the case for an amount of Rs.1,40,000/- pursuant to which, Rs.1,20,000/- has been paid by way of Demand Draft dated 17.02.2021 bearing No.945730 (Karur Vysya Bank), Tiruchengodu Branch and the balance amount of Rs.20,000/- has been paid by way of cash. The respondent/complainant has also received the amount and agreed to compromise the matter. The learned counsel would further submit that in spite of the pandemic situation he had with great difficulty raised the amount of Rs.1,40,000/- to settle the issue with the respondent/complainant. He would further submit that an amount of Rs.30,000/- was deposited before the trial Court during the pendency of the appeal. He would further submit that though the Hon'ble Apex Court has issued guidelines regarding imposition of cost at the time of settlement in the case of Damodar S. Prabhu Vs. Sayed Babalal H. reported in (2010) 5 SCC 663, he would pray that an amount of Rs.10,000/- may be directed to be deducted as cost and be paid to the Legal Services Authority of the court concerned and a further direction may be issued to the trial Judge to return back the amount of Rs.20,000/- which is available in the Court.



7 Mr.R.Venkatesh, the learned counsel appearing for the respondent/complainant would submit that the respondent received the money as stated in the compromise memo and would further submit that the offence may be compounded and the revision may be allowed.

8 Heard Mr.S.N.Subramani, learned counsel for the petitioner/accused and Mr.R.Venkatesh, learned counsel appearing for the respondent/complainant and perused the materials available on record.

9 The petitioner/accused and the respondent/complainant have entered into a memorandum of compromise and thereby they have filed a petition for compounding the offence. As per the guidelines given by the Hon'ble Supreme Court reported in (2010) 5 SCC 663 (Damodar S. Prabhu Vs. Sayed Babalal H.), to compound the offence, accused has to deposit 15% of the cheque amount before the High Court. However taking into consideration the pandemic situation, the petitioner is directed to pay Rs.10,000/- towards costs.

10 In view of the above, the offence stands compounded under Section 147 of the NI Act and the judgment dated 12.10.2020 passed in C.A.No.69 of 2010 by the learned Principal District and Sessions Judge, Namakkal, confirming the judgment of conviction and sentence passed by the learned Judicial Magistrate (FTC), Tiruchengode, in S.T.C.No.256 of 2018 dated 08.11.2019 are hereby set aside and the accused is acquitted from the charges levelled against him.

11 Accordingly, this criminal revision stands allowed and the judgments of both the Courts below are set aside. The miscellaneous petition in Crl.M.P.No.11872 of 2021 stands allowed and the other connected miscellaneous petitions are closed.

12 The trial Court is directed to return a sum of Rs.20,000/- to the petitioner/accused out of Rs.30,000/- deposited by him during pendency of the appeal and the remaining amount of Rs.10,000/- shall be paid as costs to the District Legal Service Authority concerned. Registry is directed to return back the entire case records to the trial Court forthwith.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar



1. The Principal District and Sessions Judge,
Namakkal.
2. The Judicial Magistrate (FTC),
Tiruchengode.
3. Do Through The Chief Judicial Magistrate,
Namakkal.
4. The District Legal Service Authority,
Namakkal.

Copy To:

The Section Officer,
Records, Criminal Section,
High Court, Madras
(To Return the case records to trial court)

+1cc to Mr.S.N.Subramani, Advocate, S.R.No.59363

Crl.R.C.No.1087 of 2020 and
Crl.M.P.Nos.7587 & 7589 of 2021
and Crl.M.P.No.11872 of 2021

AK-II(CO)
SB(08/12/2021)