

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Wednesday, the Nineteenth day of January
Two Thousand and Twenty Two

PRESENT

THE HON`BLE MR JUSTICE A.D.JAGADISH CHANDIRA

Crl.M.P.Nos.12673 of 2021 and 413 of 2022
in Crl.RC.1193 of 2020

Chandrasekar

... Petitioner/Accused
(in both Petitions)

Vs.

Govindarajan

... Respondent/Complainant
(in both Petitions)

Prayer in Crl.M.P.No.12673 of 2021:

Petition filed under section 482 of CrPC to accept compromise memo filed in Crl.RC.No.1193/2020 consequently setaside the judgment date 21.02.2020 passed in CA.No.184/2019 on the file of the learned III Additional Sessions Judge, City Civil Court, Chennai confirming order passed by the Metropolitan Magistrate court NO.IV(FTC), George Town, Chennai in CC.No.2381 Of 2016 dated 05.03.2019.

Prayer in Crl.M.P.No.413 of 2022:

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to accept the compromise memo filed in the Crl.RC.No. 1193 of 2020 consequently setaside the Judgement dated 21.02.2020 passed in C.A.No. 184 of 2019, on the file of the learned III ADDL. Sessions Judge, City Civil Court, Chennai Confirming the order passed by the Learned Metropolitan Magistrate Court No. IV (FTC), George Town, Chennai in C.C.No. 2381/2016 dated 05.03.2019 and order permission to the respondent for withdraw the conditional amount Rs. 2,37,437/- deposited by the petitioner on 19.08.2019 vide challan No. 161258 in CC.No. 2381/2016 on the file of the M.M. Court , FTC IV George Town.

Prayer in Crl.RC.1193 of 2020:

Criminal Revision Case filed under Section 397 and 401 of Criminal Code Procedure, to set aside the judgment in CA.No.184 of 2019 dated 21.02.2020 passed by the learned III Additional Sessions Judge, Chennai confirming the Judgment dated 05.03.2019 passed in CC.No.2381 of 2016 on the file of the learned Metropolitan Magistrate (Fast Track IV) George Town, Chennai.

Order : This petition coming on for hearing on this day upon perusing the petition and the filed in support thereof and upon hearing the arguments of Mr.S.N.Subramani, Advocate for the Petitioner and of Mr.C.V.Kumar for M/s.P.Vishnu for the Respondent the court made the following order:-

The learned counsel for the respondent/complainant would submit that the petitioner/accused introduced himself as big merchant dealing in Export and Import of agricultural products to local and foreign buyers and thereby induced the respondent/complainant to purchase maize and also promised to clear the purchase order within a period of two weeks. Based on the said words, the respondent/complainant supplied maize for the period from 23.07.2014 to 23.01.2015. The accused is liable to pay a sum of Rs.11,15,941/-, whenever, the respondent/complainant demanded the payment, the petitioner/accused sought time and thereafter, issued the following cheques (i)Cheque No.113657 dated 22.01.2015 for a sum of Rs.2,74,168/- (ii)Cheque No.113659 dated 22.01.2015 for a sum of Rs.3,08,854/- (iii)Cheque No.113660 dated 22.01.2015 for a sum of Rs.90,100/- and (iv)Cheque No.113656 dated 22.01.2015 for a sum of Rs.3,14,059/- all the cheques were drawn on the Tamil Nadu Mercantile Bank, Namakkal. The cheques were presented by the respondent/complainant through his Bank KVB, Armenian Street on 22.01.2015 and they were returned on 23.01.2015 with an endorsement "funds insufficient". Thereafter, the respondent/complainant had sent a legal notice to the petitioner/accused on 04.02.2015 through RPAD and the same was received by the accused on 06.02.2015. Despite receiving the legal notice, the accused had not sent any reply nor settled the amount. Hence, the respondent/complainant had filed CC.No.2381 of 2016 on the file of the Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai and the trial Court by an order dated 05.03.2019 and found the petitioner/accused guilty for the offence under Section 138 of the Negotiable Instruments Act and had convicted and sentenced to undergo ten months simple imprisonment and to pay the compensation of Rs.11,87,181/- with an interest at 9%p.a. from the date of dishonour of cheque, in default to undergo two months simple imprisonment, as against the order of conviction the petitioner/accused had preferred Crl.A.No.184 of 2019 before the learned III Additional Sessions Judge, Chennai, the appellate Court by a Judgment dated 21.02.2020 confirmed the judgment of conviction and sentence of the trial Court. Aggrieved against the judgment of conviction and sentence passed by the appellate Court the petitioner/accused has filed the criminal revision in Crl.RC.No.1193 of 2020 and this Court by an order dated 02.06.2021 made in Crl.MP.No.8262 of 2020 was pleased to grant suspension of sentence on condition, the petitioner to deposits a sum of Rs.2,50,000/- before the trial Court within two weeks.

2. The learned counsel for the petitioner would submit that meanwhile the parties have agreed to settle the matter between themselves. Taking into consideration, the plight of the petitioner/accused, the respondent/complainant has agreed to compound the matter with the petitioner/accused and had agreed to settle the dispute for an amount of Rs.8,32,437/-, towards full quit, though the cheque amount is for Rs.11,87,181/- the petitioner/accused had paid a sum of Rs.20,000/- by way of cash, and he has also stated no objection for releasing the amount of Rs.2,37,437/- which has been deposited before the trial Court in favour of the respondent/complainant and the petitioner has also agreed to pay the balance amount of Rs.5,75,00/- to the respondent/complainant on a future date.

3. The learned counsel for the petitioner/accused would further submit that as directed by this Court, the petitioner/accused had also drawn demand draft for a sum of Rs.41,600/- which is 5% of the agreed amount towards cost. He would pray that the compounding petition may be allowed.

4. The learned counsel for the respondent/complainant would submit that the parties are known to each other for longtime and they have agreed to settle the matter between themselves. The petitioner has agreed to receive a sum of Rs.8,32,437/- as full and final quit. The respondent/complainant has received an amount of Rs.20,000/- by way of cash and he has also agreed to withdraw the amount of Rs.2,37,437/- which is deposited before the trial Court and agrees to receive the balance amount of Rs.5,75,000/- in a future date. He would submit that the compounding petition may be allowed.

5. In view of the above, the offence stands compounded under Section 147 of the N.I. Act and the judgment passed by the appellate Court in C.A.No.184 of 2019 dated 21.02.2020 is set aside and the accused is acquitted. The respondent/complainant is permitted to withdraw the deposit amount of Rs.2,37,437/- lying before the trial Court on filing necessary application and on production of proper proof.

6. The Registrar General, High Court Madras is directed to deposit the demand draft of Rs.41,600/- bearing DD.No.797046 dated 30.12.2021 paid by the petitioner/accused towards costs.

7. In the result : -

(a) the criminal miscellaneous petition in CrI.MP.No.413 of 2022 is ordered.

(b) the CrI.MP.No.12673 of 2020 is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

TO

- 1.The Principal Sessions Judge, Chennai.
- 2.The III Additional Sessions Judge, Chennai.
3. The Metropolitan Magistrate (Fast Track IV) George Town, Chennai.
- 4.The Chief Metropolitan Magistrate,Chennai.

Copy to:

1.The Registrar General,
High Court,Madras

2.The Section Officer,/Correspondence Seat,
Criminal Section,
High Court,Madras

3. The Section Officer,
Accounts Section,
High Court,Madras

(Order Copy & Original Demand Draft No. 797046
dated 30.12.2021 enclosed herewith USR NO.118/22 DATED
04.01.2022)

Dated :19/01/2022

ORDER

CrI.M.P.Nos.12673 of
2021 and 413 of 2022
in CrI.RC.1193 of 2020

Allowing the Petition NO.413
of 2022 to to accept
compromise memo filed in
CrI.RC.No.1193/2020
consequently setaside the
judgment date 21.02.2020
passed in CA.No.184/2019 etc
as stated within.

ssi(CO)
A.SK(03.02.2022)