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Crl.R.C.No.231 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2023

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.231 of 2021 and
Crl.M.P.No.8875 of 2023

R.Jayasree, F/46 years,
W/o. Late S.Rajavelu,
Proprietrix of Namosree Polymers,
No.31/109, G.N.T.Road,
Erukkancherry,
Chennai – 600 118.

... Petitioner

Vs.

R.Kumar

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Criminal Procedure Code, to call for the records and set aside the judgment in C.A.No.580 of 2018 on the file of the Learned I Additional Sessions Judge, City Civil Court at Chennai by judgment dated 24-09-2019 confirming the sentence imposed in C.C.No.4586 of 2013 on the file of Learned Metropolitan Magistrate, Fast Track No.II, Egmore, Allikulam, Chennai dated 15-10-2018.

For Petitioner : Mr.A.Velmurugan

For Respondent : Mr.R.Vijayakumar

ORDER

The petitioner was convicted by judgment, dated 15.10.2018, in C.C.No.4586 of 2013, by the learned Metropolitan Magistrate, Fast Track Court No.II, Egmore, Chennai/trial Court, for offence under Section 138 of the



Negotiable Instruments Act and sentenced to undergo one year Simple

Imprisonment and to pay a compensation of Rs.10,00,000/- to the respondent in default, to undergo three months Simple Imprisonment. Aggrieved over the judgment of the trial Court, an appeal was preferred by the petitioner before the learned I Additional Sessions Judge, City Civil Court, Chennai/lower appellate Court in C.A.No.582 of 2018. The learned I Additional Sessions Judge, by judgment dated 24.09.2019, dismissed the appeal, confirming the judgment of the trial Court, against which the present revision.

2.Gist of the case is that the petitioner approached the respondent on 05.03.2011 and borrowed a sum of Rs.5,00,000/- for purchasing machinery and materials for her business and further, she agreed to pay interest at the rate of 18% per annum and executed the promissory note on the same day. In discharge of said liability, she issued cheque for Rs.5,00,000/- bearing No.539727, dated 08.05.2013 drawn on Indian Bank, Kilpauk Branch, Chennai. When the cheque was presented for encashment, the same was returned for the reason 'Funds Insufficient'. Thereafter, statutory notice was sent to the petitioner on 23.05.2013, but the petitioner failed to receive the notice. Hence, the complaint was lodged by the respondent.



3. During trial, the respondent examined himself as PW1 and marked four documents, namely, Cheque, Return Memo, Statutory notice and Return postal cover (Exs.P1 to P4). On the side of the petitioner, no witness was examined and no exhibit was marked.

4. The trial Court on conclusion of trial found the petitioner guilty and convicted him and sentenced to undergo one year Simple Imprisonment and to pay a compensation of Rs.10,00,000/- to the respondent in default, to undergo three months Simple Imprisonment. Aggrieved over the judgment of the trial Court, an appeal was preferred by the petitioner before the learned I Additional Sessions Judge, City Civil Court, Chennai/lower appellate Court in C.A.No.582 of 2018. The learned I Additional Sessions Judge, by judgment dated 24.09.2019, dismissed the appeal, confirming the judgment of the trial Court, against which the present revision.

5. Learned counsel for the petitioner submitted that after two concurrent findings of trial Court as well as lower appellate Court, the petitioner approached the respondent/complainant and explained her difficult situation she was faced. Further, she explained how she was deceived by one Esaki who had stolen and misused her cheque and difficulties faced by her. He further



submitted that both the petitioner and the respondent had negotiation in this regard and an understanding was reached between them. Finally, a Memorandum of Understanding, dated 31.12.2020 was reached by which, the petitioner agreed to pay Rs.3,25,000/- towards the full and final settlement and the respondent agreed for the same and also agreed to give quites to the dispute between them and to file petition under Section 147 of the Negotiable Instruments Act, 1881 to withdraw the complaint. On this score, this revision has been filed before this Court.

6.Today, the petitioner and the respondent are present before this Court. The respondent/complainant admits the Memorandum of Understanding entered between them, receiving the amount from the petitioner and agreeing to give quites to the issue. Earlier, this Court had directed the above revision to be posted along with other cases before the Lok Adalat on 12.08.2020.

7.The petitioner has filed compounding petition along with affidavits before this Court in Crl.M.P.No.8875 of 2023 in Crl.R.C.No.231 of 2021 invoking Section 147 of the Negotiable Instruments Act, 1881 to compound the offence and the same is ordered.



Crl.R.C.No.231 of 2021

8.This Court had an enquiry with both the petitioner and the respondent.

The respondent reaffirmed the compromise entered with the petitioner, Memorandum of Understanding entered between them and filing of compounding petition.

9.In view of the above development and in the interest of both the parties not to keep these proceedings pending, since it will affect their future life, the respondent/complainant filed petition Section 147 of the Negotiable Instruments Act, 1881 to compound the offence.

10.In the result, the case between the petitioner and the respondent is compounded. Hence, the judgment, dated 15.10.2018, in C.C.No.4586 of 2013, passed by the learned Metropolitan Magistrate, Fast Track Court No.II, Egmore, Chennai and the judgment dated 24.09.2019 passed by the learned I Additional Sessions Judge, City Civil Court, Chennai in C.A.No.580 of 2018 are set aside and the revision is, accordingly, allowed. The petitioner is acquitted of all the charges levelled against him.

22.06.2023

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Crl.R.C.No.231 of 2021

M.NIRMAL KUMAR, J.

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Speaking Order/Non Speaking Order

Index : Yes/No

Internet : Yes/No

Neutral Citation: Yes/No

To

- 1.The Metropolitan Magistrate,
Fast Track Court No.II,
Egmore, Chennai.
- 2.The I Additional Sessions Judge,
City Civil Court, Chennai.

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