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Crl.R.C.No.376 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2023

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.376 of 2022

T.Duraipandian

... Petitioner/Accused

Vs.

1.E.Chinthamani

2.E.Sakthi

3.R.Selvi

4.E.Saraswathi

5.Senbagavalli

6.E.Bhuvaneshwari

... Respondents

PRAYER: Criminal Revision Case has been filed under Sections 397 and 401 of Code of Criminal Procedure, praying to set aside the conviction imposed in the judgment dated 23.02.2022 made in Crl.A.No.103 of 2010 on the file of the learned IV Additional District and Sessions Judge, Bhavani confirming the conviction imposed in judgment dated 08.07.2010 made in C.C.No.4554 of 2008 on the file of learned Judicial Magistrate No.I, Bhavani by allowing this Criminal Revision petition.

For Petitioner : Mr.M.Guruprasad

For Respondents-4 & 6 : Mr.S.Kaithamalai Kumaran

For Respondents-1,2,3 & 5: No appearance



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ORDER

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This petition has been filed to set aside the conviction imposed in the judgment dated 23.02.2022 made in Crl.A.No.103 of 2010 on the file of the learned IV Additional District and Sessions Judge, Bhavani confirming the conviction imposed in judgment dated 08.07.2010 made in C.C.No.4554 of 2008 on the file of learned Judicial Magistrate No.I, Bhavani.

2.This Court, on 13.12.2023, had passed the following order:

“The petitioner was convicted by the learned Judicial Magistrate No.I, Bhavani (Trial Court) in S.T.C.No.4554 of 2008, for offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo Simple Imprisonment for one year and to pay a compensation of Rs.3,00,000/-, in default to undergo three months Simple Imprisonment. Aggrieved over the same, an appeal was filed by the petitioner before the learned Additional Sessions Judge, Bhavani (lower appellate Court) in Crl.A.No.103 of 2010. The lower appellate Court, by judgment, dated 23.02.2022 dismissed the appeal confirming the judgment of the Trial Court. Challenging the same, the present Criminal Revision Case is filed and also filed a



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petition for suspension of sentence in Crl.M.P.No.3851 of 2022 in Crl.R.C.No.376 of 2022 wherein this Court, by order, dated 25.03.2022 granted suspension of sentence with a condition that the petitioner to deposit 50% of the cheque amount i.e., Rs.1,50,000/- to the credit of S.T.C.No.4554 of 2008 on the file of the Judicial Magistrate Court No.I, Bhavani.

2.The learned counsel for the petitioner submitted that as directed by this Court, the petitioner deposited 50% of the cheque amount to the credit of S.T.C.No.4554 of 2008 on the file of the Judicial Magistrate Court No.I, Bhavani. He filed memo of compliance before this Court on 18.04.2022 confirming the said payment. The difficulty of the petitioner is that since the original complainant Eswaran passed away, the petitioner implicated the legal heirs of the said Eswaran. The said Eswaran has got two wives one Chinthamani/R1 and another one Saraswathi/R4. Chinthamani has got two children R2 and A3 and Saraswathi has got two children R5 and R6. He further submitted that the issue was referred to mediation, due to inter-se dispute between the legal heirs of Eswaran, the issue could not be resolved.

3.The contention of the petitioner is that he is an aged person with health ailments. The pendency of the above case is causing worrisome to him and he wants to away from the criminal



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case. For this purpose he is willing to deposit the balance amount of Rs.1,50,000/- before the trial Court in the credit of S.T.C.No.4554 of 2008 on the file of the Judicial Magistrate Court No.I, Bhavani. Thereafter, it is for the respondents to share the amount between them after arriving at consensus.

4.Today, the learned counsel for the respondents 4 to 6 present. She has got no objection for deposit of balance 50% amount, but she opposes the claim of R1 to R3. She submits that the issue can be resolved between them in short time since intervention of the elders is going on.

5.In view of the above, the petitioner is directed to deposit the balance cheque amount of Rs.1,50,000/- to the credit of S.T.C.No.4554 of 2008 on the file of the Judicial Magistrate Court No.I, Bhavani at any time on or before 18.12.2023.

6.Post the matter on 19.12.2023 under the caption 'For Reporting Compliance'."

3.In continuation and conjunction to the earlier order passed by this Court, today, the learned counsel for the petitioner submitted that the balance 50% of the cheque amount, i.e., Rs.1,50,000/- has been deposited to the credit of S.T.C.No.4554 of 2008 on the file of Judicial Magistrate Court No.I,



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Bhavani. He has also produced the copy of the receipt, a scanned reproduction of the same reads as follows:

Honorable High Court, Madras.
Order in CRLRC No. 376/2022 in
Crlmpm. 3251 and 3849/2022 D/I 13.12.23
Crl. Misc. 51A.-512 Bks.-19-9-23.
FOIL

No. **No. 030120**
(Form of receipt to be granted
STC No. 4554/2008 by the Court)
IN THE COURT OF THE
JUDICIAL MAGISTRATE NO-I
Received this **BHAVANI** day of **19** 0
from **T. Durai pandian**
S/o Thavas
son of **43C. Vannapuram 5th Street,**
Annagar, Bhavani the
sum of Rs. **2,50,000/-** () being
(Rupees one Lakh fifty Thousand
only)
the **whole** of the **Durai pandian**
S/o Thavas
part
Re. **JUDICIAL MAGISTRATE NO-I**
BHAVANI
18/12/20



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4.The learned counsel appearing for the respondents 4 and 6 submitted that they have got no objection for compounding the offence. As regards the other legal heirs of Eswaran, it is for them to accept the proposal of payment of cheque amount or otherwise.

5.Considering the fact that the cheque amount is Rs.3,00,000/-, the petitioner had already paid 50% of the cheque amount, i.e., 1,50,000/- to the credit of S.T.C.No.4554 of 2008 on the file of the Judicial Magistrate Court No.I, Bhavani on 11.04.2022 and filed a Memo of Compliance before this Court on 18.04.2022. Now, the balance amount has been deposited and that the petitioner had deposited the entire cheque amount. In view of the same, this Court is inclined to modify the conviction passed by the Lower Court.

6.In view of the above, the conviction order passed by the learned Judicial Magistrate No.I, Bhavani in S.T.C.No.4554 of 2008 dated 08.07.2010 as confirmed by the learned IV Additional District and Sessions



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Judge, Bhavani in Crl.A.No.103 of 2010 dated 23.02.2022 is hereby set

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aside. As regards the compensation of Rs.3,00,000/- to be paid by the petitioner/accused, the same is sustained. The legal heirs of Late Eswaran are permitted to withdraw the deposited amount of Rs.3,00,000/- in S.T.C.No.4554 of 2008, without notice to the petitioner.

7.With the above modifications, the Criminal Revision Case is partly allowed.

19.12.2023

Index : Yes/No

Speaking order / Non-speaking order

Neutral Citation : Yes/No

rsi

To

1.The IV Additional District and Sessions Judge,
Bhavani.

2.The Judicial Magistrate No.I,
Bhavani.

3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

rsi

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19.12.2023