



Crl.R.C.No.787 of 2020
& Crl.M.P.No.5495 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16.06.2023

Coram:

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.R.C.No.787 of 2020
& Crl.M.P.No.5495 of 2020

B.Ramesh, ... Accused/Appellant/Petitioner
/versus/

1. The State rep. by,
The Inspector of Police,
Thudiyalur Police Station,
Periyanaickenpalayam Sub Division,
Coimbatore District.

2. P. Ayyasamy. ... Respondents/Complainant

Prayer: Criminal Revision Case has been filed under Section 397 and 401 of Cr.P.C., pleased to call for the records in connection with C.A.No.293 of 2017 on the file of Learned III Additional District Judge, Coimbatore, order dated 04.08.2020 while confirming the order of Judicial Magistrate, Fast Track Court at Magistrate Level-I, Coimbatore, in C.C.No.763 of 2013 in order dated 08.09.2017 and same may be set aside and consequently, acquitted the petitioner and pass orders.



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For Petitioner : Mr.T.Arul
For R1 : Mr.R.Krishore Kumar,
Government Advocate (Crl.Side)
For R2 : Mr.M.Devaraj

ORDER

This Criminal Revision Petition is directed against the concurrent finding of the Courts below holding the accused guilty of issuing a cheque for Rs.1,26,000/-, dated 15.03.2013, drawn on Indian Overseas Bank, Kurudampalayam, Coimbatore without arranging for its payment. When the said cheque was presented for collection bounced with an endorsement “account closed”. The statutory notice was issued to the accused through post and he received the same on 19.04.2013. He replied on 26.04.2013 denying the liability. Thus, cause of action to file criminal complaint arose and accordingly, the complainant made a written complaint before the Judicial Magistrate, FTC No.1 @ Magistrial Level, Coimbatore, which took the complaint on file in C.C.No.763 of 2013.

2. The complainant to prove issuance of cheque to discharge the



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existing liability marked six exhibits, mounted the witness box and reiterated the complaint. Whereas, on behalf of the accused one Thiru.Venkatasubramanian was examined and the account opening form (Ex.D.1) of the accused was marked.

3. The trial Court held the accused guilty and sentenced him to undergo S.I for the period of 6 months and pay fine of Rs.1,26,000/- within 2 months from the date of judgment, failing which shall undergo 2 months S.I.

4. Being aggrieved by the conviction and sentence passed by the trial Court, the accused preferred Criminal Appeal No.293 of 2017, before the III Additional District and Sessions Court, Coimbatore, stating that, the accused has proved that there was no account maintained by him on the date of cheque. D.W.1 and Ex.D.1 clearly proves that the subject cheque was issued to the account holder few years prior to the date of cheque. However, III Additional District and Sessions Court, Coimbatore, rejected the defence stating that, the complainant has proved the case beyond doubt through the pro-note Ex.P.1 executed by the accused and the cheque issued about 2 years after the pro-note which indicates that, cheque was issued to discharge the debt incurred on the pro-note executed by the accused.



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5. Being aggrieved by concurrent finding of the Courts below, the present revision is filed on the ground that, without considering the evidence, the Courts below have held the accused guilty. When there is no eye witness for the execution of the pro-note and the cheque not been admitted by the complainant as issued to discharge a debt. These two documents ought not to have been relied as genuine when the accused has proved that there was no transaction in his bank account for several years and the subject cheque was issued by the Bank few years prior to the date on which it bears. Hence, prayed the Courts below ought to have presumed that the subject matter of the cheque was issued only for security and not for the loan debt against the availed in the year 2011.

6. When the petition taken up for consideration, it was reported that, the accused who is the revision petitioner herein, had already deposited a sum of Rs.75,000/- on the file of Judicial Magistrate-I, FTC No.1 @ Magisterial Level, Coimbatore and the receipt been issued by the said Court on 21.09.2020. Further Rs.50,000/- by cash was given to the the Learned Counsel for the respondent. Therefore, submitted that, even if this Court arrive at conclusion that the subject



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matter of the cheque was to discharge the existing liability of Rs.1,26,000/-, but failed to honour taking into account the fact that the said amount has already been paid, same may be taken into consideration and the revision petition be disposed of accordingly.

7. The Learned Counsel for the respondent admits that, he has received Rs.50,000/- from the Learned Counsel for the revision petitioner and also submitted that, he may be permitted to withdraw Rs.75,000/- on the file of Judicial Magistrate, Fast Track Court No.I @ Magisterial Level, Coimbatore, deposited in the account of C.C.No.763 of 2013 on 21.09.2020.

8. In view of the facts narrated above, the complainant having proved that the cheque for Rs.1,26,000/- was given to discharge the existing debt and not honoured, when it was presented for collection also admits the receipt of Rs.50,000/- by cash today and expressed his intention to compound the offence, this Court pass the following order:-

9. In the light of the settlement arrived between the parties, this ***Criminal Revision Case is disposed of***, as offence compounded. The respondent



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is permitted to withdraw Rs.75,000/- deposited in the account of C.C.No.763 of 2013 on 21.09.2020 on the file of Judicial Magistrate, Fast Track Court No.1 @ Magisterial Level, Coimbatore. If money been invested in any bank and had gained interest, the complainant is entitled to enjoy the said interest also. Consequently, connected Miscellaneous Petition is closed.

16.06.2023

Index :Yes/No.
Neutral Citation :Yes/No.
Speaking order/Non-speaking order
bsm

Copy to:-

1. The III Additional District Judge, Coimbatore.
2. The Judicial Magistrate, Fast Track Court at Magistrate Level-I, Coimbatore.
3. The Inspector of Police, Thudiyalur Police Station,
Periyanaickenpalayam Sub Division,
Coimbatore District.
4. The Public Prosecutor, High Court, Madras.



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Dr.G.JAYACHANDRAN.J.,

bsm

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