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Crl.R.C.No.2156 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2023

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.2156 of 2023 and
Crl.M.P.Nos.19532 & 20162 of 2023

K.M.Mohammed Ubais,
Prop. M/s.Mobile 1 & Mobile Track,
No.58-E, 8th Street, Crosscut Road,
Gandhipuram, Coimbatore -12.

... Petitioner

Vs.

1.M/s.Rashi Peripherals Pvt Ltd.,
Rep. by its authorized Rep. and Area,
sales Manager, Mr.John Cecil Christopher,
S/o.J.Cedric Irudhayanathan,
Door No.35, Bharathi Park, 8th Cross Street,
Saibaba Colony, Coimbatore-11.

2.State Represented by
Public Prosecutor,
Coimbatore.

... Respondents

PRAYER: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to set aside the judgment dated 3.12.2021 passed in C.A.No.97/2019 by the III Additional District & Sessions Judge at Coimbatore confirming the judgment dated 4.2.2019 passed in C.C.No.102/2017 by the Judicial Magistrate, Fast Track Court No.II @ Magistrate Level, Coimbatore, allow this revision.



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For Petitioner : Mr.C.D.Sugumar
For Respondents : Mr.B.Mohan-R1
Mr.A.Damodaran,
Additional Public Prosecutor-R2

ORDER

The petitioner was convicted by the learned Judicial Magistrate, Fast Track Court at Magisterial Level-2, Coimbatore (trial Court) by judgment, dated 04.02.2019 in C.C.No.102 of 2017 and sentenced to undergo Simple Imprisonment for six months and to pay the cheque amount of Rs.1,16,234/- with 6% of interest per annum from the date of cheque payable to the 1st respondent within one month from the date of the judgment, in default to undergo Simple Imprisonment for three months for offence under Section 138 of the Negotiable Instruments Act, 1881. Aggrieved over the same, an appeal was preferred by the petitioner before the learned III Additional District & Sessions Judge, Coimbatore (lower appellate Court) in Criminal Appeal No.97 of 2019. The lower appellate Court, by judgment, dated 03.10.2021 dismissed the appeal confirming the judgment of the trial Court. Challenging the same, the present Criminal Revision Case is filed.



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2.Gist of the case is that the 1st respondent/complainant is a Distributor of Samsung cellphones and the petitioner/accused is a retail seller. The petitioner purchased Samsung cellphones from the 1st respondent on credit basis in the name of the above concerns. On 31.01.2016, the amount due to the 1st respondent from the petitioner is Rs.1,03,734/- and on 04.08.2015, the amount due to the 1st respondent from the petitioner is Rs.13,364/-. In discharge of the said liability, the petitioner issued a cheque bearing No.193078, dated 28.03.2016 drawn on IDBI Bank, Dr.Balasundaram Road, Coimbatore for a sum of Rs.1,03,734/- to the 1st respondent. When the cheque was presented for encashment on 28.04.2016 through his banker HDFC Bank, Metupalayam Road, Coimbatore, the same was dishonoured on 29.04.2016 for the reason 'Funds Insufficient'. Again, a cheque No.378487, dated 02.02.2016 drawn on IDBI Bank, Dr.Balasundaram Road, Coimbatore for an amount of Rs.12,500/- was issued by the petitioner and the same was also dishonoured. Thereafter, the 1st respondent issued statutory notices to the petitioner on 20.05.2016 and the same were received on 23.05.2016. Despite receipt of the same, neither made any reply nor paid the cheque amount. After following the statutory



provisions, the 1st respondent filed a private complaint before the trial Court in C.C.No.102 of 2017. During trial, on the side of the 1st respondent/complainant, two witnesses examined as PW1 & PW2 and ten documents marked as Exs.P1 to P10. On the side of the defence, two witnesses examined as DW1 & DW2 and two documents marked as Exs.D1 & D2. On conclusion of trial, the trial Court convicted the petitioner as stated above.

3.The learned counsel for the petitioner submitted that after two concurrent findings of trial Court as well as lower appellate Court, the petitioner paid the amount of Rs.1,16,234/- by way of cheque No.003528, dated 29.12.2021 drawn on HDFC Bank, Coimbatore to the 1st respondent/complainant, as a result, the parties settled their issues involved in this case.

4.The learned counsel for the 1st respondent also confirmed the receipt of the cheque amount by the 1st respondent and the 1st respondent agreed to give quites to the dispute between them. To compound the offence, the 1st

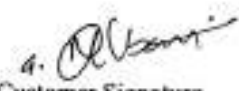
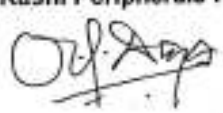


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respondent filed a petition under Section 147 of the Negotiable Instruments Act, 1881 in Crl.M.P.No.20162 of 2023 in Crl.R.C.No.2156 of 2023 to withdraw the complaint.

5.Today, the petitioner and the 1st respondent are present before this Court. The 1st respondent/complainant admits the receipt of Rs.1,16,234/- by way of cheque and he issued receipt to that effect. The scanned reproduction of the same is as follows:

Customer Copy

 Rashi Peripherals Pvt. Ltd No. 17/13, 2nd Street, Talabad, Opp. to V3 Wellington-Apartment, Sivananda Colony, Coimbatore - 641 012 Ph. : 0422 4223835	RECEIPT No. : 5983 Date : 29/12/2021
Received with thanks from M/s. Mr. MOHAMMED Khais K.H, Prop. Mobile I & Mobile Tech For The Claim Made in C.C.No-102/2017 On The File of The F.M.J of COIMBATORE..... the sum of Rupees ONE LAKH SIXTEEN THOUSAND TWO HUNDRED THIRTY FOUR ONLY towards FULL AND FINAL SATISFACTION..... by Cash / *Cheque No. 003528 Bank HDFC Bank, COIMBATORE Dated 29/12/2021 vide our Bill No. _____ Dated _____	
 1,16,234.00 *Subject to realisation * Subject to Coimbatore Jurisdiction	For Rashi Peripherals Pvt. Ltd  Customer Signature with Seal 



6.The 1st respondent/complainant has filed a compounding petition along with affidavit before this Court in Crl.M.P.No.20162 of 2023 in Crl.R.C.No.2156 of 2023 invoking Section 147 of the Negotiable Instruments Act, 1881 to compound the offence and the same is ordered. Further, a joint compromise memo has been filed confirming the payment of Rs.1,16,234/- by the petitioner in favour of the 1st respondent.

7.This Court had an enquiry with both the petitioner and the 1st respondent. The 1st respondent reaffirmed the compromise entered with the petitioner and filing of joint compromise memo and compounding petition.

8.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, this Court is inclined to compound the offence.

9.In the result, the case between the petitioner and the 1st respondent is compounded. Hence, the judgment of the trial Court, dated 04.02.2019 in C.C.No.102 of 2017 and the judgment of the lower appellate Court, dated



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03.12.2021 in Criminal Appeal No.97 of 2019 are set aside and the revision is, accordingly, allowed. The petitioner is acquitted of all the charges levelled against him. Consequently, the connected Crl.M.P.No.19532 of 2023 is closed.

21.12.2023

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

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To

- 1.The III Additional District & Sessions Court,
Coimbatore.
- 2.The Judicial Magistrate,
Fast Track Court at Magisterial Level-2,
Coimbatore.



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M.NIRMAL KUMAR., J.

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