



Crl.R.C.Nos.104 and 105 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.Nos.104 and 105 of 2022
and
Crl.M.P.Nos.17389 and 17390 of 2023

S.Vaidyanathan

... Petitioner
in both Crl.RCs

Vs.

M/s.Ambay Finance,
Rep. by its Proprietor,
Ashok Kumar Jain,
No.9, Trevelyan Basin Street,
Sowcarpet,
Chennai – 600 079.

... Respondent in
Crl.R.C.No.104/2022

M/s.Arihant Motors,
Rep. by its Proprietor,
Mukesh Jain,
No.9, Trevelyan Basin Street,
Sowcarpet,
Chennai – 600 079.

... Respondent in
Crl.R.C.No.105/2022



CrI.R.C.Nos.104 and 105 of 2022

PRAYER in CrI.R.C.No.104/2022: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to set aside the judgment and conviction dated 03.03.2021 made in C.A.No.162 of 2019 on the file of the learned VI Additional Sessions Judge, City Civil Court, Chennai confirming the judgment and conviction dated 26.03.2019 made in C.C.No.3888 of 2017 on the file of the Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai.

PRAYER in CrI.R.C.No.105/2022: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to set aside the judgment and conviction dated 03.03.2021 made in C.A.No.163 of 2019 on the file of the learned VI Additional Sessions Judge, City Civil Court, Chennai confirming the judgment and conviction dated 26.03.2019 made in C.C.No.3885 of 2017 on the file of the Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai.

For Petitioner
in both CrI.RCs : Mr.N.R.Rajagopalan

For Respondent
in both CrI.RCs : Mr.G.Vivekanandan



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COMMON ORDER

The petitioner was convicted by judgment, dated 26.03.2019, in C.C.No.3888 of 2017 and C.C.No.3885 of 2017, by the learned Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai/trial Court, for offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo ten months Simple Imprisonment and to pay a compensation of Rs.8,86,000/- and Rs.11,13,000/- with interest @ 9% per annum from the date of dishonour till the date of realization within a period of one month, in default to undergo two months simple imprisonment in both the cases. Aggrieved over the judgment of the trial Court, appeals were preferred by the petitioner before the learned VI Additional Sessions Judge, City Civil Court, Chennai/lower appellate Court in C.A.No.162 of 2019 and C.A.No.163 of 2019. The learned VI Additional Sessions Judge, by judgment dated 03.03.2021 dismissed the appeals, confirming the judgment of the trial Court, against which the present revisions.



2.Gist of the case is that the petitioner approached the respondents on 14.09.2016 and borrowed a sum of Rs.7,00,000/- from the respondent in Crl.R.C.No.104 of 2022 and a sum of Rs.8,00,000/- from the respondent in Crl.R.C.No.105 of 2022 by executing a promissory note but the petitioner failed to repay the loan amount. In discharge of the liability, the petitioner issued two cheques dated 21.09.2017 for a sum of Rs.8,86,000/- and Rs.11,13,000/-to the respective respondent drawn on ICICI Bank, T.Nagar Branch, Chennai. When the cheques were presented for encashment, the same was returned for the reason 'Insufficient Funds'. Thereafter, statutory notice dated 21.10.2017 was sent to the petitioner which was received by him on 25.10.2017. But the petitioner neither replied nor repaid the loan amount. Hence, the complaint was lodged by the respondent.

3.During trial, the respondent examined himself as PW1 in both the cases and marked Ex.P1 to Ex.P5 in C.C.No.3888 of 2017 and Ex.P1 to Ex.P6 in C.C.No.3885 of 2017. On the side of the petitioner, no witness was examined and no exhibit was marked. The trial Court on conclusion of trial found the petitioner guilty and convicted him as stated above, the lower



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appellate Court dismissed the appeals confirming the trial Court judgment, against which two criminal revision cases in Crl.R.C.Nos.104 & 105 of 2022 filed before this Court.

4.Today, the petitioner as well as the respondent in both the revision petitions and their respective counsels are present before this Court. Both the parties as well as the counsels submitted that the issue between the petitioner and the respondents have been amicably resolved and a joint compromise memo was produced to this effect. It is submitted that the total amount due is Rs.19,99,000/-, of which Rs.3,99,800 has already been paid and the balance amount of Rs.16,00,000/- has been paid by way of depositing Rs.8,00,000/- in City Union Bank in favour of Ambay Finance in Account No.108038 on 10.08.2023 and cheque in No.000053 for Rs.8,00,000/- which the respondents have admitted and there is no dispute in this regard.

5.The petitioner filed compounding petitions along with affidavits before this Court in Crl.M.P.No.17389 of 2023 in Crl.R.C.No.104 of 2022



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and Crl.M.P.No.17390 of 2023 in Crl.R.C.No.105 of 2022 invoking Section 147 of the Negotiable Instruments Act, 1881 to compound the offence and both the petitions are ordered.

6.This Court had an enquiry with both the petitioner and the respondent in both the revision petitions. The respondents reaffirmed the compromise entered with the petitioner, Memorandum of Understanding entered between them and filing of compounding petition.

7.At this juncture, the learned counsel for the petitioner submits that an amount of Rs.1,77,200/- (Rupees one lakh seventy seven thousand and two hundred only) and Rs.2,22,600/- (Rupees Two lakh twenty two thousand and six hundred only) have been paid to the credit of C.C.No.3888 of 2017 and C.C.No.3885 of 2017 respectively on 03.09.2019 before the Trial Court as per the order of the Lower Appellate Court and seeks permission of this Court to withdraw the same. The scanned reproduction of the receipts are as follows:



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RECEIVED from S. Induction Petition / Reel in case-3888/17
 The sum of Rupees one lakh seventy seven thousand and five hundred
only cash deposited at PM for settling of monthly allowance
Commissioner Judge Chetty in Cr. no-7719/14 to Cr-62/2019
 on account of one month allowance extended order dt 3/5/19 at PM
dt 10/4/19 in familiar dt 22/4/19 2019 by Chetty governor
in 177200
Sd/-
Chetty

161266

RECEIVED from S. Vaidyanathan, Petitioner/Account in case-3885/2017
in sum of Rupees Two lakhs Twenty five thousand and Six hundred only
with deposit of PA to order of Principal Sessions
Judge, which is Col. mp-7720/19 is CA-03/2019
in case-3885/17 10/10/19 Extended order dt-
30/8/19 and FTE 2000 permitted dt-22/9/19
20% of Cheque amount.

10/10/19



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8.He further submits that the balance amount of Rs.16,00,000/- has been paid by way of depositing Rs.8,00,000/- in City Union Bank in favour of Ambay Finance in Account No.108038 on 10.08.2023 and cheque in No.000053, dated 10.08.2023 for Rs.8,00,000/-. The scanned reproduction of the same and the bank statement showing the amount of Rs.16,00,000/- credited to the account of the respondent/complainant, are as follows:





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Call your bank 844-712-5000

NO9 TRIVELYANBESIN ST
80W/CARPET
CHENNAI - 600079

9/12



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STATEMENT OF ACCOUNT

CITY UNION BANK

Branch: 112-Chennai Purasawalkam Branch
42, New No 107, Dr. Rajagopal Road, Purasawalkam, Chennai-600084 Ph: 8382642003 IPSC: CUB0000118
Ref No: 000111081026231347
Visit www.cityunionbank.com
Dial your bank 044-71220000

Account No : 112109000087490
Account Type : Current Account - General
Account Type : INR
Customer No : 1023341
ARHANT MOTORS

Statement Dt : 01-SEP-2023 to 30-SEP-2023
Date of Opening : 11-JAN-2008
Mode Of Operation : SINGLE

RADIANCE EMPIRE
FLAT NO.D-608 6TH FLOOR STEEPENSON
VYSARPADI CHENNAI CHENNAI - 600038

Account No : 112109000087490		Statement Dt : 01-SEP-2023 to 30-SEP-2023		Amt Brought Forward : 19,895.78	
Date	Particulars	Chq No	Debit	Credit	Balance
07-SEP-2023	BY ONL UPICR/32521150583/VJAYAKURUBAVV94922@R-0-0032			2,580.00	22,475.78
07-SEP-2023	BY ONL UPICR/32521150583/VJAYAKURUBAVV94922@R-0-0032			3,850.00	26,325.78
07-SEP-2023	BY ONL UPICR/32521150583/VJAYAKURUBAVV94922@R-0-0032			2,900.00	29,225.78
07-SEP-2023	BY ONL UPICR/32521150583/VJAYAKURUBAVV94922@R-0-0032			3,300.00	32,525.78
08-SEP-2023	BY ONL UPICR/32521150583/VJAYAKURUBAVV94922@R-0-0032			4,800.00	37,325.78
08-SEP-2023	BY CHEQUE/D PAYMENT: CA 512109000087490112	65377		80,000.00	1,17,325.78
08-SEP-2023	BY CHEQUE/D PAYMENT: CA 512109000087490112	2		1,90,000.00	3,07,325.78
08-SEP-2023	TO TRANSFER: DD 512109000087490112	65245	80,000.00		2,27,325.78
08-SEP-2023	TO TRANSFER: DD 512109000087490112	65245	2,10,000.00		17,325.78
09-SEP-2023	TO MONTHLY MAINTENANCE CHARGES FOR MONTH 08/2023-09/2023		531.00		16,794.78
09-SEP-2023	BY ONL UPICR/32521150583/VJAYAKURUBAVV94922@R-0-0032			6,185.00	22,979.78
10-SEP-2023	BY ONL UPICR/32521150583/VJAYAKURUBAVV94922@R-0-0032			3,740.00	26,719.78
11-SEP-2023	BY ONL UPICR/32521150583/VJAYAKURUBAVV94922@R-0-0032			3,540.00	30,259.78
11-SEP-2023	BY ONL UPICR/32521150583/VJAYAKURUBAVV94922@R-0-0032			2,890.00	33,149.78
12-SEP-2023	BY CLEARNING: 000000-0000-112-VADIVANATHAN 30121	52		8,00,000.00	8,33,149.78
13-SEP-2023	BY ONL UPICR/32521150583/VJAYAKURUBAVV94922@R-0-0032			3,360.00	8,36,509.78
13-SEP-2023	TO CHEQUE DINESH S 30112	65245	25,000.00		8,11,509.78
13-SEP-2023	TO TRANSFER: DD 512109000087490112	65245	8,00,000.00		11,509.78
14-SEP-2023	BY ONL UPICR/32521150583/VJAYAKURUBAVV94922@R-0-0032			2,000.00	13,509.78
14-SEP-2023	BY ONL UPICR/32521150583/VJAYAKURUBAVV94922@R-0-0032			1,670.00	15,179.78
16-SEP-2023	BY ONL UPICR/32521150583/VJAYAKURUBAVV94922@R-0-0032			3,970.00	19,149.78
18-SEP-2023	BY ONL UPICR/32521150583/VJAYAKURUBAVV94922@R-0-0032			6,090.00	25,239.78



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9.Learned counsel for the respondents/complainant has got no objection for the petitioner to withdraw the same since their liability have been settled.

10.In the result, the case between the petitioner and the respondent is compounded. Hence, the judgment, dated 26.03.2019 in C.C.No.3888 of 2017 and C.C.No.3885 of 2017, passed by the learned Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai and the judgment dated 03.03.2021 passed by the learned VI Additional Sessions Judge, City Civil Court, Chennai in C.A.No.162 of 2019 and C.A.No.163 of 2019 are set aside and the revisions are, accordingly, allowed. The petitioner is acquitted of all the charges levelled against him.

30.10.2023

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Index:Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation: Yes/No



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M.NIRMAL KUMAR, J.

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To

- 1.The Metropolitan Magistrate,
Fast Track Court No.IV,
George Town, Chennai.
- 2.The VI Additional Sessions Judge,
City Civil Court, Chennai.

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