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Crl.R.C.No.1253 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2023

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1253 of 2017

A.Ravichandran
S/o.Arunachalam

... Petitioner/Accused

Versus

G.Kumar

... Respondent/complainant

PRAYER : Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. to call for the orders passed in Crl.A.No.114 of 2016 dated 17.07.2017 by the III Additional Sessions Judge, Salem confirming the judgment sentence to undergo simple imprisonment of 6 months and to pay compensation for a sum of Rs.2,00,000/- within one month by confirming the order passed in C.C.No.206/2012 dated 24.10.2016 by the learned Judicial Magistrate-I, Salem and set aside the same and thereby allow the Criminal Revision Petition and consequently acquit the petitioner.

For Petitioner : Mr.T.Sundaravadanam

For Respondent : Mr.C.Prabakaran

ORDER

This Criminal Revision Case has been filed to set aside the conviction and sentence passed by the learned III Additional Sessions Judge, Salem in



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Crl.A.No.114 of 2016 dated 17.07.2017 confirming the sentence and order of conviction passed by the learned Judicial Magistrate-I, Salem, in C.C.No.206/2012 dated 24.10.2016 and acquit the petitioner.

2. The petitioner/accused in C.C.No.206 of 2012 was convicted by the learned Judicial Magistrate No.I, Salem under Section 138 of Negotiable Instrument Act and sentenced to undergo simple imprisonment for six months and to pay a sum of Rs.2,00,000/- as compensation. Aggrieved against the same, the petitioner preferred an appeal before the learned III Additional Sessions Judge, Salem in C.A.No.114 of 2016. The learned III Additional Sessions Judge, Salem, by judgment dated 17.07.2017 dismissed the appeal confirming the conviction and sentence passed by the trial Court, against which, the petitioner has preferred this present Criminal Revision Petition.

3. This Court, on 21.12.2022, passed the following order:

"The petitioner is present before this Court along with his counsel and produced Joint Memo of the petitioner and the respondent. In the Joint Memo, it is seen that the petitioner had paid a sum of Rs.1,65,000/- and for the balance of Rs.35,000/-, the same to be given credit, since the petitioner already deposited the same before



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the Judicial Magistrate No.I, Salem, while filing suspension of sentence in C.M.P.No.12185 of 2017 in Crl.R.C.No.1253 of 2017 before this Court.

2. The petitioner seems to be a disabled person. He submits that after execution of sureties before Judicial Magistrate-I, Salem in the year 2018, he had been regularly appearing on the first working day of every month. He further submits that due to passage of time, he does not have a copy of the receipt and the surety particulars. But, he affirms that he had paid a sum of Rs.35,000/- to the credit of C.C.No.206 of 2012.

3. Learned counsel for the respondent / complainant submits that on instructions that the petitioner had not paid Rs.35,000/- before the Judicial Magistrate-I, Salem and not complied with the conditional order of this Court.

4. Therefore, this Court directs Judicial Magistrate No.I, Salem to ascertain from the records, whether the petitioner had deposited Rs.35,000/- to the credit of C.C.No.206 of 2012 as per the direction of this Court in Crl.M.P.No.12185 of 2017 in Crl.R.C.No.1253 of 2017 and to furnish the particulars.

5. Learned counsel for the petitioner seeks small accommodation to verify and produce the payment particulars.

6. Post the matter on 09.01.2023."



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4. In continuation and conjunction to the order passed by this Court on 21.12.2022, it is seen that earlier on 30.06.2022, a Memorandum of Understanding entered between the petitioner and respondent, wherein, the petitioner/accused agreed to pay the cheque amount of Rs.2,00,000/- to the respondent. Following the Memorandum of Understanding, on 21.12.2022, a sum of Rs.1,65,000/- was paid to the respondent and a joint memorandum dated 21.12.2022 acknowledging the payment, signed by both the parties and their respective counsels, was produced along with the receipt. As per the conditional order, the petitioner deposited a sum of Rs.35,000/- to the credit of C.C.No.206 of 2012. The learned Judicial Magistrate No.I, Salem confirmed the same vide his communication in D.No.2369/2022 dated 27.12.2022.

5. In view of the compromise entered between the petitioner and respondent, the offence under Section 138 of N.I. Act in C.C. No.206 of 2012 is compounded.

6. It is submitted that the petitioner has got no objection for the



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respondent to withdraw the deposited amount, which is lying in the credit of C.C.No.206 of 2012. In view of the no objection given by the petitioner, notice to the petitioner/accused is dispensed with.

7. Accordingly, this Criminal Revision Case is allowed. The judgment of conviction and sentence passed by the Courts below against the petitioner are set aside and the revision petitioner is acquitted of the charge under Section 138 of the Negotiable Instruments Act.

8. The trial Court is directed to disburse the amount, which is lying in the Court deposit in C.C.No.206 of 2012, to the respondent/complainant, after filing of appropriate application by the respondent for withdrawing the said amount.

09.01.2023

Index: Yes/No
Internet: Yes/No
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Note: Issue order copy on 10.01.2023



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M.NIRMAL KUMAR, J.

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To

- 1.The III Additional Sessions Judge,
Salem.
- 2.The Judicial Magistrate No.I,
Salem.
- 3.The Public Prosecutor,
High Court, Madras.

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