



Crl.R.C.(MD).No.788 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 23.08.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC(MD)No.788 of 2023

and

Crl.M.P(MD)Nos.10639 and 10640 of 2023

N.Thomas Thangamani
Now Confined at
Central Prison,
Trichy.

.. Petitioner /Appellant /Accused

Vs.

A.Liyakath Ali Khan

.. Respondent/ Respondent/Complainant

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records pertaining to the order passed in C.A.No.94 of 2018 on the file of the learned II-Additional District & Sessions Court, Trichy dated 18.10.2019 by confirming the conviction and sentence passed by the learned Judicial Magistrate, Manapparai, Trichy District in S.T.C.No.276 of 2017 dated 09.07.2018 and set aside the same.



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For Petitioner : Mr.A.Vadivel
For Respondent : Mr.Pon Suresh Kumar

ORDER

This Criminal Revision Case has been filed to set aside the Judgment dated 18.10.2019, passed by the learned II-Additional District & Sessions Court, Trichy in Crl.A.No.94 of 2018, confirming the Judgment dated 09.07.2018 passed by the learned Judicial Magistrate , Manapparai, Trichy District in S.T.C.No.276 of 2017.

2. The petitioner borrowed a sum of Rs.5,00,000/- from the respondent and executed a promissory note agreeing to repay the same with interest at the rate of 18% per annum and paid the interest regularly for some time and thereafter, he stopped paying interest. Hence, the respondent demanded the entire loan amount with interest. To discharge the said debt, he issued a cheque for a sum of Rs.7,10,000/- drawn on the bank of Indian Overseas Bank, Viralimalai Branch. The respondent presented the cheque before the Indian Bank, Manapparai Branch on 13.02.2017 and the same was returned on 15.02.2017 with an endorsement of “insufficient fund”. Therefore, the respondent issued the legal notice on 04.03.2017. Though the petitioner sent a reply notice on



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13.03.2017 and he has not made any payment. In such circumstances, the respondent filed a complaint under Section 138 Cr.P.C., before the learned Manapparai, Trichy District. The learned Judicial Magistrate taken the complaint on file in S.T.C.No.276 of 2017.

3. Thereafter, on receipt of the summons, the petitioner appeared and contested the case. The learned Trial Judge after following the procedure, examined the respondent as P.W.1 and one Lawrence Durairaj as DW1 and perused the documents Ex.P.1 to Ex.P.6. The learned trial Judge by Judgment dated 09.07.2018 convicted the petitioner under Section 138 of Negotiable Instruments Act and sentenced to undergo 6 months Simple Imprisonment Further, ordered to pay a sum of Rs.5,00,000/- to the respondent as compensation.

4. Aggrieved over the same, the petitioner filed the Criminal Appeal in C.A.No.94 of 2018 on the file of the learned II-Additional District and Sessions Judge, Trichy. The learned Appellate Judge also confirmed the same. Hence, the petitioner preferred this revision before this Court.



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5. Today, when the matter is taken up for hearing, both counsel on record would submit that they have already filed joint compromise memo, which is extracted hereunder:-

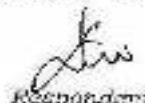
A.Liyekath Ali Khan (M/44/2023)
S/o. Abdul Rahim,
D.No.25/2, Masthan Street,
Manapparai Municipality,
Tiruchirappalli District.

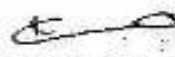
...Respondent/Respondent/
Complainant

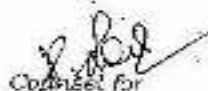
JOINT COMPROMISE MEMO

1) It is submitted that the case of the Complaint is that, the Petitioner had borrowed a loan for his business a sum of Rs.5,00,000/- (Five Lakhs Rupees) from the respondent and executed a promissory note agreeing to repay in the same with interest at the rate of 18% per annum and paid the interest for some time, the petitioner and the respondent are close friends as long time and both were classmates in the school level. Therefore, allegedly, Under these circumstances, the petitioner/accused stopped paying interest to the respondent/complainant. Hence, the respondent demanded the entire loan amount with interest. Therefore, alleging that the Petitioner issued a Cheque on 10.02.2017 for a sum of Rs.7,10,000/-bearing Cheque No.510451 drawn on the


Petitioner/Accused


Respondent


Counsel for
Petitioner/Accused


Counsel for
Respondent



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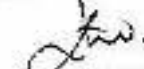
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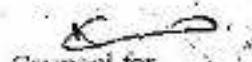
Indian Overseas Bank, Viralmalai Branch. The respondent on 13.02.2017 presented before Indian Bank, Manapparai Branch on his bank account and the same dishonored for insufficient fund on 15.02.2017. The bank also given endorsement memo. The respondent was sent a statutory notice to me on 04.03.2017 and on 13.03.2017. The Petitioner has also sent reply notice.

2) It is submitted that in the meanwhile, allegedly the Petitioner was not able to settle said loan amount, within stipulated time, hence the respondent has been filed the case in S.T.C.No.276 of 2017 before the Learned Judicial Magistrate, Manapparai, Tiruchirappalli District and came to conclusion of trial, which given simple imprisonment for 6 months and to pay compensation of Rs.5,00,000/- and paid said amount within period.

3) It is submitted that being aggrieved by the Judgment passed by the Learned Judicial Magistrate Court in S.T.C.No.276 of 2017 dated 09.07.2018 on the file of the Learned Judicial Magistrate, Manapparai. Against which, the Petitioner have preferred criminal appeal in


Petitioner/ Accused


Respondent


Counsel for
Petitioner/ Accused


Counsel for
Respondent



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Crl.A.No.94 of 2018 before the II Additional District & Sessions Judge, Tiruchirappalli and dismissed on 09.07.2018, the same by confirmed the Judgment passed by the Learned Judicial Magistrate, Manapparai.

4) It is submitted that aggrieved by the same, the Revision Petitioner prefers this Criminal Revision Petition in Crl.R.C.(MD)No.788 of 2023 and this Hon'ble Court has ordered to suspend the sentence imposed by the learned II-Additional District & Sessions Court, Trichy in Crl.A.No.94 of 2018 in Crl.M.P.(MD)No.10639 of 2023 dated 24.07.2023. Following this order of suspend the sentence, the Petitioner come out on bail.

5) It is submitted that in this juncture, the Petitioner and the Respondent both are settled the issue out of the Court. Hence, the Respondent did not want to proceed the case and he has no objection to close this Criminal Revision Petition in Crl.R.C.(MD)No.788 of 2023. Hence, this Hon'ble Court accept this Joint Compromise Memo.


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Respondent


Counsel for
Petitioner/Accused


Counsel for
Respondent



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6. The contents of the above joint compromise memo are read over and explained to both the parties and they would admit the same. The joint compromise memo filed by both the parties is recorded.

7. In view of the compromise entered between the parties, the offence under Section 138 of Negotiable Instruments Act stands compounded under Section 147 of the Negotiable Instruments Act.

8. In the result, this Criminal Revision Petition is allowed and the judgment dated 09.07.2018 passed by the learned Judicial Magistrate, Manapparai, Trichy District in S.T.C.No.276 of 2017 and the judgment dated 18.10.2019 passed by the learned II-Additional District and Sessions Judge, Trichy in C.A.No.94 of 2018 are hereby set aside. The petitioner/accused is acquitted from the charges levelled against him. Bail bond if any, executed by the accused shall stand discharged. Consequently, connected miscellaneous petitions are closed.

23.08.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
PJJ



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To

- 1.The II-Additional District and Sessions Judge,
Trichy.
- 2.The Judicial Magistrate Judge,
Manapparai,
Trichy District.
3. The Superintendent,
Central Prison,
Trichy.
4. The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

PJL

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