



Crl.R.C.(MD)No.1118 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 30.08.2023

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD)No.1118 of 2022

G.Thiagarajan

.. Petitioner/Appellant

Vs.

M/s.Sree Gokulam Chit & Finance
Company Private Ltd.,
Through It's Power Agent
P.Rajasekar

.. Respondent/Complainant

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records of the impugned Judgment of the Additional District Court (FTC), Nagercoil in C.A.No.111 of 2017 dated 09.09.2022 in dismissing the Criminal Appeal and confirming the conviction and sentence passed by the learned Judicial Magistrate (Fast Track Court No.II) Magisterial level, Nagercoil, in C.C.No.515 of 2012 dated 17.07.2017 and set-aside the same.



Crl.R.C.(MD)No.1118 of 2022

WEB COPY

For Petitioner : Mr.S.Ramakrishnan

For Respondent : Mr.B.Brijesh Kishore

ORDER

This Criminal Revision Case has been filed against the Judgment dated 09.09.2022 in C.A.No.111 of 2017 passed by the learned Additional District Judge (FTC), Nagercoil, confirming the Judgement dated 17.07.2017 in C.C.No.515 of 2012 passed by the learned Judicial Magistrate (Fast Track Court No.II) Magisterial level, Nagercoil.

2. The respondent/complainant M/s.Sree Gokulam Chit and Finance Company (P)Ltd., is having its registered office at Chennai and Divisional Office at Veppamoodu Junction, Nagercoil and also having branches in all over India. The petitioner is the subscriber of two chits in the respondent's complainant as per chit bearing No.G2F/137/TRY/12 for an amount of Rs.2,00,000/- and another chit No.J3G.234.JMM23 for an amount of Rs.3,00,000/-. The petitioner participated in the chit auction and prized both chits. The accused is



Crl.R.C.(MD)No.1118 of 2022

WEB COPY

a wilful defaulter in payment of chit subscription and there is a total due of Rs.2,25,300/-. The respondent sent reminder dated 30.4.2010 demanding the payment of the said chit amount due. Thereafter, the petitioner approached the respondent Company and issued a cheque bearing No.378757 for a sum of Rs.2,25,300/- dated 04.06.2010 drawn on ICICI Bank Ltd., Nagercoil in favour of the respondent to discharge his liability. The respondent presented the cheque before his bank ie., South Indian Bank, Nagercoil Branch and the same was returned on 07.06.2010 with an endorsement of “Funds Insufficient”. Therefore, the respondent issued the legal notice on 03.07.2010. The petitioner received the notice on 06.07.2010 and sent a reply notice on 15.07.2010 and he did not make any payment. In such circumstances, the respondent filed a complaint under Section 138 of the Negotiable Instruments Act, before the learned Judicial Magistrate (Fast Track Court No.II) Magisterial level, Nagercoil and the same was taken on file in C.C.No.515 of 2012.

3. Thereafter, on receipt of the summons, the petitioner appeared before the trial Court and contested the case. The learned



Crl.R.C.(MD)No.1118 of 2022

WEB COPY

trial Judge, after following the procedure, examined the complainant as PW.1 and the accused as DW.1 and perused the documents Ex.P1 to Ex.P10 and Ex.D1 to Ex.D8 and passed the conviction under Section 138 of Negotiable Instruments Act and sentenced him to undergo six months Simple Imprisonment vide Judgment dated 17.07.2017 in C.C.No.515 of 2012.

4. Aggrieved over the same, the petitioner filed the Criminal Appeal in Crl.A.No.111 of 2017 on the file of the learned Additional District Judge (FTC), Nagercoil. The learned Additional District Judge also confirmed the same by order dated 09.09.2022. Hence, the petitioner preferred this revision before this Court.

5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

6. Today, when the matter is taken up for hearing, both the parties and the respective learned counsel are appeared before this Court. The learned counsel for the petitioner submitted that the



Crl.R.C.(MD)No.1118 of 2022

WEB COPY

petitioner has paid the entire cheque amount due of Rs.2,25,300/- and he has also filed an affidavit to that effect. The relevant paragraphs of the said affidavit is extracted hereunder:

“3. I further state that during the month of March 2009, I have affected Jaundice twice and also suffered chicken kunia, so I could not repay the chit amount some months. The respondent has issued legal notice through his advocate on 30.04.2010. After receiving the said notice I have sent reply through my advocate on 17.06.2010. Thereafter, the respondent has initiated under section 138 of N.I. Act as against me.

4. I submit that I was convicted in C.C.No.515 of 2012 dated 17.07.2017, by the Learned Judicial Magistrate (Fast Track Court No.II) Magisterial level, Nagercoil, wherein the Learned trial court found that I am a guilty for the offence under section 138 of N.I.Act and convicted me and sentenced to undergo simple imprisonment for 6 months. No fine is imposed. Aggrieved, I have preferred the appeal before the Addl District Court, (FTC), Nagercoil and the same also confirmed by the order of the trialcourt. As against the said revision before this Honourable Court. order I have preferred this



Crl.R.C.(MD)No.1118 of 2022

WEB COPY

criminal revision before this Court.

5. I submit that on 18.11.2022 as per the direction of this Honourable High Court. I have f 50% of cheque amount) before today 30.08.2023, I have Rs.1,12,650/- by way of paid a sum of Rs. 1,12,650/- (the Paid the trial court on 09.12.2022) remaining balance amount of 28.08.2023 Tamil Nadu Mercantile Bank, Rajakkamangalam Branch in the name demand draft of "SREE No."540899" dated CO., LTD., According to the entire balance and cheque amount of IGOKULAM CHIT AND FINANCE Rs.2,25,300/- (Rupees Two Lakhs Twenty Five Thousand and Three Hundred only) paid by me.

6. The criminal liabilities for the issuance of Exhibit P3 cheque amount has been paid by me. The Civil Proceedings is concerned I will face the case separately. Hence in the interest of justice may be pleased to accept this affidavit."

7. In view of the above said affidavit filed by the petitioner, the offence under Section 138 of the Negotiable Instruments Act stands compounded under Section 147 of the Negotiable Instruments Act.



Crl.R.C.(MD)No.1118 of 2022

WEB COPY

8. In the result, this Criminal Revision Petition is allowed and the judgment dated 17.07.2017 in C.C.No. 515 of 2012 passed by the learned Judicial Magistrate (Fast Track Court No.II) Magisterial level, Nagercoil, and the judgment dated 09.09.2022 in C.A.No.111 of 2017 passed by the learned Additional District Court (FTC), Nagercoil 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. The respondent/complainant is permitted to withdraw the amount already deposited. In view of averment made in paragraph No.6 of the affidavit filed by the petitioner, both parties are at liberty to proceed the civil proceedings independently in accordance with law. The affidavit filed by the petitioner dated 30.08.2023 shall form part of this order.

30.08.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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Crl.R.C.(MD)No.1118 of 2022

To

1. The Additional District Judge (FTC),
Nagercoil.
2. The Judicial Magistrate (Fast Track Court No.II),
Magisterial level,
Nagercoil.
3. The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court,
Madurai.



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Crl.R.C.(MD)No.1118 of 2022



WEB COPY



Crl.R.C.(MD)No.1118 of 2022

K.K.RAMAKRISHNAN, J.

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Crl.R.C(MD)No.1118 of 2022

30.08.2023