



Crl.R.C.(MD).No.256 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 08.09.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC(MD)No.256 of 2023

Sheik Mohamed

... Petitioner/Appellant/Accused

Vs.

Rajesh

... 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 judgment dated 17.08.2022 in Criminal Appeal No.2 of 2021 on the file of learned Principal District Judge, Karur, preferred against the Judgment dated 31.12.2020 in STC.No.105 of 2019 on the file of the learned District Munsif-Cum-Judicial Magistrate, Aravakurichi and set aside the both judgments by allowing this Revision.

For Petitioner : Mr.R.Narayanan

For Respondent : Mr.R.Mathiyalagan



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ORDER

This Criminal Revision Case has been filed to set aside the Judgment of the Appellate Court passed by the learned Principal District Judge, Karur, in Criminal Appeal No.2 of 2021 dated 17.08.2022, confirming the judgment in STC.No.105 of 2019 dated 31.12.2020, on the file of the learned District Munsif-Cum-Judicial Magistrate, Aravakurichi.

2. The petitioner borrowed a sum of Rs.5,00,000/- from the respondent on 17.04.2016. To discharge the said debt, he issued two cheques on various dates i.e., on 17.11.2016 and 07.12.2016 drawn on the bank of State Bank of India, Navalpattu Branch. The respondent presented the cheque before his Bank on the above dates itself and one cheque was returned with an endorsement of “Insufficient Funds” and another cheque was dishonoured. Therefore, the respondent issued the legal notice on 15.12.2016. Even though the petitioner received the same on 15.12.2016, he has not sent any reply and has not made any payment. In such circumstances, the respondent filed a complaint under Section 138 Cr.P.C., before the learned District Munsif-Cum-Judicial Magistrate, Aravakurichi. The learned Judicial Magistrate taken the complaint on file in STC.No.105 of 2019.



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3. Thereafter, on receipt of the summons, the petitioner appeared and contested the case. The learned Trial Judge after following the procedure, examined P.W.1 & D.W.1 and perused the documents Ex.P.1 to Ex.P.5 & Ex.Y1 to Ex.Y3 and passed the conviction under Section 138 of Negotiable Instruments Act to undergo 6 months Simple Imprisonment and to pay a fine amount of Rs.5,00,000/- to the respondent as compensation in default, to undergo 2 months Simple Imprisonment by the Judgment dated 31.12.2020.

4. Aggrieved over the same, the petitioner filed the Criminal Appeal in C.A.No.2 of 2021 on the file of the learned Principal District Judge, Karur. The learned Appellate Judge also confirmed the same. Hence, the petitioner preferred this revision before this Court.

5. Today (08.09.2023), 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 here under:-



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**IN THE HIGH COURT OF JUDICATION AT MADRAS
MADURAI BENCH
[Criminal Side Jurisdiction]**

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SHEIK MOHAMED, aged about 60 years,
S/o. Mohammed Hussain,
1/268 - Bharathi Nagar,
Poonlangudi Colony,
Thiruvarcambur Taluk,
Trichy - 620 025,

PETITIONER

VS

RAJESH, aged about 35 years,
S/o. Muthusamy,
26/A- Caro Nagar,
Aravakurichi Village,
Aravakurichi Taluk,
Kannur District.

RESPONDENT

JOINT COMPROMISE MEMO

1. It is humbly submitted that the above revision preferred by the Petitioner against the conviction and sentence passed in STC No.105/2019 on the file of the learned District Munsif - Cam - Judicial Magistrate, Aravakurichi, which was confirmed in Criminal Appeal No.02 of 2021 on the file of learned Principal District Court, Kannur,

2. It is further submitted that the Petitioner herein made attempt in the presence of well wishers to settle issue amicably and therefore negotiated with the Respondent. The Respondent herein accepted the proposal of the petitioner to settle the issue amicably.



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3. It is submitted that therefore the Petitioner herein paid a sum of Rs.3,10,000/- (Rupees Three Lakhs Ten Thousands) as full and final settlement to the Respondent herein. The Respondent herein received and acknowledged the full and final settlement and also issued a receipt to that effect. Further the Respondent has no objection to allow the above Revision Petition by setting aside the sentence imposed on the petitioner by the learned Trial Court and confirmed by the learned Appellate Court.

Therefore in view of the settlement, it is prayed that this Hon'ble Court may be pleased to allow the above revision by setting aside the sentence imposed in STC No.105/2019 on the file of the learned District Munsif - Cui - Judicial Magistrate, Aravakurichi, which was confirmed in Criminal Appeal No.02 of 2021 on the file of learned District Court, Katur and thus render justice.

Dated at Madurai on this the 02nd day of September 2023.

PETITIONER

RESPONDENT

COUNSEL FOR PETITIONER

COUNSEL FOR RESPONDENT

Enclosure:

1. Copy of settlement receipt signed by the Respondent/Complainant.



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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. Accordingly, the conviction and sentence imposed by the learned District Munsif-Cum-Judicial Magistrate, Aravakurichi, in STC.No.105 of 2019 dated 31.12.2020, and confirmed by learned Principal District Judge, Karur, in Criminal Appeal No.2 of 2021 dated 17.08.2022, is hereby set aside and the Criminal Revision Case is allowed. The accused is acquitted from the charges levelled against him. Bail bond if any, executed by the accused shall stand discharged.

08.09.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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To

- 1.The Principal District Judge,
Karur.
- 2.The District Munsif-Cum-Judicial Magistrate,
Aravakurichi.
- 3.The Section Officer,
Record Section (Criminal),
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

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