



CrI.R.C.No.231 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.R.C.No.231 of 2024 and
CrI.M.P.Nos.2067 & 15284 of 2024

R.Sakthivel

... Petitioner

Vs.

J.Narasimman

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Cr.P.C, to call for the records and set aside the order passed in C.A.No.35 of 2022 on the file of the learned Additional District and Sessions Judge, Dharmapuri dated 28.11.2023 confirming the order of the trial Court in C.C.No.21 of 2018 on the file of the learned Judicial Magisterial Fast Track Court (M.L) Dharmapuri on 27.09.2022 by allowing this revision.

For Petitioner : Mr.K.Anbarasan

For Respondent : Mr.D.Ramesh Kumar



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ORDER

The petitioner was convicted by judgment, dated 27.09.2022 in C.C.No.21 of 2018 by the Judicial Magistrate, Fast Track Court (Magisterial Level), Dharmapuri (Trial Court) for offence under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo one year Simple Imprisonment and to pay the cheque amount of Rs.15,00,000/- as compensation to the respondent in default to undergo six months Simple Imprisonment. Aggrieved over the judgment of the Trial Court, an appeal was preferred by the petitioner before the learned Additional Sessions Judge, Dharmapuri (Lower Appellate Court) in Crl.A.No.35 of 2022. The learned Sessions Judge by judgment dated 28.11.2023 dismissed the appeal, confirming the judgment of the trial Court, against which the present revision.

2.Gist of the case is that the petitioner is an authorized dealer of Indian Oil Corporation Limited and having petrol bunk in the name of M/s.Saradha Ranganathan Agency and known to the respondent for the past four years. The petitioner approached the respondent in the month of July,



2016 seeking financial assistance to improve his business and to meet out his family expenses and promised to repay the amount within six months.

On such representation, the respondent gave Rs.15,00,000/- to the petitioner on 15.09.2016 and the petitioner issued a post dated cheque, dated 05.02.2017 for Rs.15,00,000/- drawn on Indian Bank, Dharampuri Branch. When the respondent presented the cheque for encashment on 15.02.2017, the same was returned for the reason “Insufficient Funds”. Thereafter, the respondent issued statutory notice on 28.02.2017 to the petitioner and the petitioner sent a reply with false allegations. Thereafter, the respondent lodged a private complaint under Section 138 of the Negotiable Instruments Act, 1881 before the Trial Court.

3.During trial, on the side of the respondent, three witnesses examined as PW1 to PW3 and twenty six documents marked as Exs.P1 to P26. On the side of the defence, five witnesses examined as DW1 to DW5 and seven documents marked as Exs.D1 to D7. The trial Court on conclusion of trial found the petitioner guilty and convicted him as stated above.

4.The learned counsel for the petitioner submitted that during the



pendency of the present criminal revision case, the dispute between the petitioner and the respondent resolved and the petitioner paid the cheque amount of Rs.15,00,000/- along with litigation expenses of Rs.2,50,000/- to the respondent on 20.10.2024. He further submitted that as per the order of the Lower Appellate Court in Crl.M.P.No.211 of 2022 in Crl.A.No.35 of 2022, the petitioner deposited Rs.3,00,000/- to the credit of C.C.No.21 of 2018 on the file of the Trial Court and the same may be returned back to the petitioner.

5.The learned counsel for the respondent submitted that the issue between the parties settled amicably and the petitioner paid the cheque amount along with litigation expenses to the respondent. The respondent has got no objection for the petitioner to receive back the amount of Rs.3,00,000/- deposited by him before the Trial Court in C.C.No.21 of 2022.

6.Today, the petitioner and respondent present before this Court. This Court had an enquiry with both the petitioner and the respondent. The



respondent reaffirmed the receipt of the cheque amount of Rs.15,00,000/- and litigation expenses of Rs.2,50,000/- and filing of compounding petition.

Added to it, the petitioner and the respondent filed joint compromise memo confirming the settlement and the respondent agreed to withdraw the complaint against the petitioner.

7.The respondent/complainant has filed a compounding petition before this Court in Crl.M.P.No.15284 of 2024 in Crl.R.C.No.231 of 2024 invoking Section 147 of the Negotiable Instruments Act, 1881 to compound the offence and the same is ordered.

8.In view of the subsequent development, no useful purpose will be served by keeping the revision pending. It will be in the interest of both the parties not to keep these proceedings pending, since it will affect their future life. As per Section 147 of the Negotiable Instruments Act, 1881, every offence punishable under this Act shall be compoundable.

9.Accordingly, the judgment, dated 27.09.2022 in C.C.No.21 of 2018 passed by the Trial Court and the judgment, dated 28.11.2023 in



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Crl.A.No.35 of 2022 passed by the Lower Appellate Court are set aside.

This Criminal Revision Case stands allowed. The Trial Court is directed to permit the petitioner to withdraw the amount of Rs.3,00,000/- deposited by him in C.C.No.21 of 2018 without any notice to the respondent. Consequently, connected criminal miscellaneous petition is closed.

29.10.2024

Index:Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation: Yes/No

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To

1.The Additional Sessions Judge,
Dharmapuri.

2.The Judicial Magistrate,
Fast Track Court (Magisterial Level),
Dharmapuri.

M.NIRMAL KUMAR, J.



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