



CrI.A.No.1081 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.A.No.1081 of 2023
and CrI.M.P.No.2730 of 2024

M.Arumugam

... Appellant

Vs.

Kamalakannan

... Respondent

Prayer: Criminal Appeal filed under Section 378 of Cr.P.C. to set aside the order of acquittal dated 23.03.2022 in C.C.No.239 of 2019 on the file of the Judicial Magistrate, Fast Track Court [Magisterial Level], Tiruvannamalai.

For Appellant : Mr.N.Chandrasekar

For Respondent : Mr.T.Shanmugam

JUDGMENT

The appellant as a complainant filed a private complaint against the respondent under Section 138 of Negotiable Instruments Act in C.C.No.239



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of 2019 before the learned Judicial Magistrate, Fast Track Court [Magisterial Level], Tiruvannamalai. The Trial Court by order dated 23.03.2022 dismissed the complaint in C.C.No.239 of 2019 for non-appearance and non-prosecution of the complainant and acquitted the respondent. Against which, the present appeal is filed.

2.Gist of the case is that the appellant and the respondent are relatives. The respondent borrowed a sum of Rs.3,25,000/- from the appellant to meet his urgent business expenses and agreed to repay the same within 15 days. In discharge of the liability, the respondent issued a cheque for a sum of Rs.3,25,000/-. When the appellant demanded return of money after 15 days, the respondent informed the appellant/complainant to encash the cheque after expiring of another 15 days. When the cheque was presented for encashment, the same was returned for the reason 'Funds Insufficient'. Thereafter, statutory notice was sent to the respondent on 17.12.2014, he received the notice on 03.01.2015. But the respondent neither repaid the amount nor issued any reply notice. Hence, complaint was lodged by the respondent.



3.The case was taken on file as C.M.P.No.1381 of 2015 on the file of the learned Judicial Magistrate No.I, Tiruvannamalai and subsequently, transferred to the Trial Court in the year 2019, numbered as C.C.No.239 of 2019, cognizance taken and summons issued to the accused. The respondent/accused appeared before the Court and the first questioning of the accused completed. But the appellant/complainant has not appeared before the Court for several hearings. Despite several opportunities given, the appellant/complainant failed to appear before the Trial Court. Thereafter, notice to the complainant was sent through Dis.No.1272/2021 dated 06.12.2021. Despite receipt of notice, the appellant/complainant failed to appear. Hence, the Trial Court dismissed the complaint for non-appearance and non-prosecution of the complainant.

4.Today, the petitioner is present before this Court through video conferencing and the respondent is present before this Court in person. The appellant/complainant admits the receipt of entire amount of Rs.3,25,000/- from the respondent and agreeing to give quietus to the issue.



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5.The appellant has filed compounding petition along with affidavit before this Court in Crl.M.P.No.2730 of 2024 in Crl.A.No.1081 of 2023 invoking Section 147 of the Negotiable Instruments Act, 1881 to compound the offence and the same is ordered.

6.This Court had an enquiry with both the petitioner and the respondent. The appellant reaffirmed the receipt of Rs.3,25,000/- from the respondent/accused.

7.In the result, the willingness of the appellant and the respondent to compound the offence recorded. Hence, the judgment, dated 23.03.2022 in C.C.No.239 of 2019, passed by the learned Judicial Magistrate, Fast Track Court [Magisterial Level], Tiruvannamalai acquitting the respondent/accused is confirmed. Accordingly, the Criminal Appeal stands disposed of.

15.02.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
cse



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To

The Judicial Magistrate,
Fast Track Court [Magisterial Level],
Tiruvannamalai.



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M.NIRMAL KUMAR, J.

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