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Crl.R.C.No.1671 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2024

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1671 of 2023 and
Crl.M.P.Nos.15770 of 2023 & 2976 of 2024

Jeyaraj

... Petitioner

Vs.

A.Meganathan

... Respondent

Prayer: Criminal Revision Petition filed under Sections 374(2) of Criminal Procedure Code, to set aside the conviction order/judgment dated 08.02.2023 made in Crl.A.No.305 of 2019 on the file of VII Additional Sessions City Civil at Chennai, conforming judgment and conviction dated 29.07.2019 made in CC No.493 of 2015, on the file of the learned Metropolitan Magistrate Fast Track -II, Allikulam, Egmore, Chennai and to convict the respondent for a maximum punishment under Section 138 N.I Act and also convict the respondent for compensation under Section 357 of Cr.P.C

For Petitioner : Mr.T.Subramanian
For Respondent : Mr.P.R.Dineshkumar

ORDER

The petitioner was convicted by the learned Metropolitan Magistrate, Fast Track Court No.II, Egmore at Allikulam (trial Court) by judgment, dated 29.07.2019 in C.C.No.493 of 2016 and sentenced to undergo Simple



Crl.R.C.No.1671 of 2023

Imprisonment for one year and to pay compensation of Rs.17,50,000/- to the respondent, in default to undergo Simple Imprisonment for three months in addition to his substantive sentence for offence under Section 138 of the Negotiable Instruments Act, 1881. Aggrieved over the same, an appeal was filed by the petitioner before the learned VII Additional Sessions Judge, VII Additional District and Sessions Court, Chennai (lower appellate Court) in Crl.A.No.305 of 2019. The lower appellate Court, by judgment, dated 08.02.2023 partly allowed the appeal confirming the conviction and sentence and reducing the compensation to Rs.7,50,000/- to be paid to the respondent. Challenging the same, the present Criminal Revision Case is filed.

2.Gist of the case is that the respondent purchased three plots bearing plot Nos.74, 75 & 155 at Ganapathy Nagar, Kattupakkam Village, Tiruvallur District measuring to the extent of 3,600/- sq.ft from the petitioner on 27.01.1999. Until 2014, the respondent was in peaceful possessions of the vacant lands. Thereafter, the respondent entered into a sale agreement during the period of September 2014 with one S.Kandipan, Proprietor of



Harshini Builders who is the power agent of the respondent. When the respondent inspected the vacant land, he found that the petitioner along with few others namely Manikandan & others deliberately trespassed and carried out the construction works in the said property owned by the respondent. After negotiation, the petitioner came forward to settle the amount of Rs.21,50,000/- and an agreement was entered between the respondent and the petitioner by virtue of which the petitioner issued the following cheques:

1. Cheque No.000013 – Rs.8,50,000/-, dated 25.01.2015.
2. Cheque No.000011 – Rs.6,50,000/-, dated 05.02.2015
3. Cheque No.000012 – Rs.6,50,000/-, dated 15.02.2015.

All the three cheques were drawn on Kotak Mahindra Bank, Porur Branch, Chennai and when the same were presented on 18.02.2015, the same were returned for the reason that 'funds insufficient' on 02.02.2015. Thereafter, the respondent issued statutory notice to the petitioner calling him to make the payment of the cheque amount and after following the procedures, a complaint in C.C.No.493 of 2016 filed before the trial Court.

3.During trial, the respondent examined himself as PW1 and marked



seven documents as Exs.P1 to P7. On the side of the defence, no witness examined and no document marked. After full-fledged trial, the trial Court convicted the petitioner as stated above.

4.This Court on 11.10.2023, 31.10.2023, 23.11.2023 & 24.01.2024 had passed the following orders:

Order, dated 11.10.2023:

“Learned counsel for the petitioner seeks small accommodation stating that to show his bonafide the petitioner shall pay Rs.2,50,000/- on or before 31.10.2023 and the balance of Rs.5,00,000/- will be paid three weeks thereafter. 2.Post the matter on 31.10.2023.”

Order, dated 31.10.2023:

“Learned counsel for the petitioner submits that in compliance of the order passed by this Court on 11.10.2023, the petitioner paid a sum of Rs.2,50,000/- on 30.10.2023. He further seeks small accommodation to pay the balance amount of Rs.5,00,000/-.

2.In view of the same, the petitioner is directed to pay another Rs.2,50,000/- within a period of three weeks from today i.e. on or before 22.11.2023 and the balance



Rs.2,50,000/- shall be paid within a period of two weeks thereafter.

3.Post the matter on 23.11.2023.”

Order, dated 23.11.2023:

“In pursuant to the order passed by this Court on 31.10.2023, the petitioner had paid a sum of Rs.2,50,000/- to the respondent. The learned counsel for the respondent confirms the same. The petitioner was directed to pay a sum of Rs.2,50,000/- thereafter. For which, the learned counsel for the petitioner seeks three weeks time.

2. In the light of the above, the petitioner is directed to pay a sum of Rs.2,50,000/- on or before 14.12.2023.

3. Post the matter on 15.12.2023.”

Order, dated 24.01.2024:

“The learned counsel for the petitioner submits that as per undertaking given before this Court on 22.01.2024, the petitioner is ready to pay the balance amount of Rs.1,50,000/-. In all probability, today the petitioner would pay the amount of Rs.1,50,000/- by evening itself.

2.The learned Government Advocate (Crl. Side) is directed to ensure whether the petitioner has made payment through the Inspector of Police, R9 Valasaravakkam Police



Station, Chennai. In the event of non-payment, the Inspector of Police, R9 Valasaravakkam Police Station, Chennai to ensure the petitioner's presence before this Court on 29.01.2024.

3.Post the matter on 29.01.2024.”

5.In continuation and conjunction to the above orders, this Court is passing the following order.

6.The learned counsel for the petitioner submitted that after the conviction of the trial Court, the petitioner preferred an appeal before the lower appellate Court in Crl.A.No.305 of 2019 and the same was partly allowed on 08.02.2023 confirming the sentence and reducing the compensation to Rs.7,50,000/- to be paid to the respondent within three months. He further submitted that now the issue resolved between the petitioner and the respondent for a sum of Rs.7,50,000/-. The petitioner made the payment of Rs.7,50,000/- in cash to the respondent on various dates. Thus, the entire amount of Rs.7,50,000/- as ordered by the lower appellate Court have been settled and the respondent has also filed petition under Section 147 Cr.P.C., in Crl.M.P.No.2976 of 2024 in Crl.R.C.No.1671



of 2023 to compound the offence. Hence, he prays for setting aside the judgments of the trial Court as well as the lower appellate Court.

7.The learned counsel for the respondent also confirmed the receipt of Rs.7,50,000/- in cash and the respondent agreed to give quites to the dispute between them. He further submitted that to compound the offence, the respondent filed a petition under Section 147 of the Negotiable Instruments Act, 1881 in Crl.M.P.No.2976 of 2024 in Crl.R.C.No.1671 of 2023 to withdraw the complaint and also filed affidavit to that effect.

8.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 Rs.7,50,000/- from the petitioner and filing of compounding petition. Added to it, the petitioner and the respectively filed joint compromise memo confirming the payment of Rs.7,50,000/- in cash to the respondent and the respondent agreeing to withdraw the complaint against the petitioner.

9.The respondent/complainant has filed a compounding petition



Crl.R.C.No.1671 of 2023

before this Court in Crl.M.P.No.2976 of 2024 in Crl.R.C.No.1671 of 2023 invoking Section 147 of the Negotiable Instruments Act, 1881 to compound the offence and the same is ordered.

10.In view of the above development and in the interest of both the parties not to keep these proceedings pending since it will affect their future life, this Court is inclined to compound the case.

11.In the result, the case between the petitioner and the respondent is compounded. Hence, the judgment of the trial Court, dated 29.07.2019 in C.C.No.493 of 2016 and the judgment of the lower appellate Court, dated 08.02.2023 in Crl.A.No.305 of 2019 are set aside. The petitioner is acquitted of all the charges levelled against him. Accordingly, this Criminal Revision Case stands allowed. The connected Crl.M.P.No.15770 of 2023 is closed.

08.02.2024

vv2

Index : Yes/No



CrI.R.C.No.1671 of 2023

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

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To

- 1.The VII Additional Sessions Judge,
VII Additional District and Sessions Court,
Chennai.
- 2.The Metropolitan Magistrate,
Fast Track Court No.II, Egmore at Allikulam.



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Crl.R.C.No.1671 of 2023

M.NIRMAL KUMAR., J.

vv2

Crl.R.C.No.1671 of 2023

08.02.2024