



WEB COPY



Crl.R.C.No.1309 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1309 of 2024

and

Crl.M.P.Nos11338 and 11466 of 2024

D.Suresh

... Petitioner/Accused

Vs.

D.Stalin Antony Raj

... Respondent/Complainant

PRAYER: Criminal Revision Case has been filed under Sections 438 and 442 of Bharatiya Nagarik Suraksha Sanhita, praying to call for the records and set aside the conviction imposed in the judgment dated 19.12.2022 passed by the learned Judicial Magistrate, Fast Track Court (Magistrate Level), Alandur in C.C.No.157 of 2019 and confirmed in the judgment dated 05.04.2024 passed by the Principal District and Sessions Judge, Chengalpattu in C.A.No.40 of 2023 and acquit the petitioner from all the charges by allowing this criminal revision.

For Petitioner

: Mr.J.Jawahar

For Respondent

: Mr.G.Tamilselvan



Crl.R.C.No.1309 of 2024

ORDER

WEB COPY

This petition has been filed seeking to set aside the conviction imposed in the judgment dated 19.12.2022 by the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Alandur in C.C.No.157 of 2019 and confirmed in the judgment dated 05.04.2024 by the Principal District and Sessions Judge, Chengalpattu in C.A.No.40 of 2023 and acquit the petitioner from all the charges by allowing this criminal revision.

2.The petitioner is the accused in C.C.No.157 of 2019 in a private complaint filed by the respondent/complainant under Section 138 of the Negotiable Instruments Act. The Trial Court, by judgment dated 19.12.2022, convicted the petitioner and sentenced him to undergo one year simple imprisonment and to pay a compensation of Rs.11,08,000/- to the respondent. Aggrieved against the judgment, the petitioner preferred an appeal in C.A.No.40 of 2023 before the Principal District and Sessions Judge, Chengalpattu. The learned Sessions Judge, by judgement dated 05.04.2024,



Crl.R.C.No.1309 of 2024

WEB COPY

dismissed the appeal confirming the conviction and sentence of the trial Court, against which, the present revision has been filed.

3.The case against the petitioner is that the respondent/complainant is running a Gas Agency and the petitioner running Car service centre. On the request of the petitioner, the respondent invested in old car buying and selling business and the respondent paid a sum of Rs.2,50,000/- on 18.11.2014 and Rs.3,00,000/- on 13.01.2015 through cheque and paid Rs.3,50,000/- on 28.12.2014 in cash. In total, he paid Rs.9,00,000/- and thereafter the repayment from the business was not as projected and promised by the petitioner. The petitioner paid only Rs.3,10,000/- and promised to repay the balance in two installments, for which, he issued a cheque for Rs.8,85,000/- dated 20.03.2019. Thereafter, the cheque was returned for the reason 'Account Closed'. Thereafter statutory notice issued, following statutory conditions complaint filed. In the trial, the respondent examined himself as PW1 and marked 6 documents as Exs.P1 to P6. On conclusion of trial, the



Crl.R.C.No.1309 of 2024

WEB COPY

petitioner found guilty and sentenced to undergo one year simple imprisonment and ordered him to pay a compensation of Rs.11,08,000/-. The Lower Appellate Court dismissed the appeal confirming the conviction and sentence of the trial Court.

4.The contention of the learned counsel for petitioner is that the petitioner and respondent agreed to do business jointly and in the business some loss occurred. Though the petitioner explained to the respondent/complainant about the difficulty in the business, the respondent/complainant by force obtained the cheque. The trial Court as well as the Lower Appellate Court failed to consider the same. He further submitted that the petitioner was arrested and remanded based on the conviction warrant and now he is in prison. The petitioner has got two school going children and he has to take care of his family. The petitioner's wife approached the respondent, explained to him and the respondent is also agreed to compromise the issue.



Crl.R.C.No.1309 of 2024

WEB COPY

5.The learned counsel for respondent/complainant submitted that the petitioner had taken loan in the year 2014 and thereafter, after several representations, the petitioner agreed to repay and issued cheque in the year 2019, which was presented and got dishonoured, further the respondent was cheated. The trial Court as well as Lower Appellate Court considering the conduct of the petitioner had convicted him. He fairly submitted that petitioner's wife approached the respondent and pleaded for showing some leniency and arrive at a settlement. Hence, a compromise was arrived and the respondent agreed to receive a sum of Rs.5,00,000/- instead of cheque amount of Rs.8,85,000/- or the compensation amount of Rs.11,08,000/-. Further the respondent agreed to withdraw and willing to compound the case against the petitioner.

6.Today, the petitioner's wife as well as respondent and their respective counsel are present. The petitioner's wife produced a Demand



Crl.R.C.No.1309 of 2024

WEB COPY

Draft in original bearing No.118447 dated 06.08.2024 for a sum of Rs.5,00,000/-. The original demand draft return back to the petitioner. Both petitioner's wife and respondent confirmed the compromise entered between them and the respondent/complainant reiterated the compounding of the offence. The learned counsel for petitioner filed Joint Memo of Compromise signed by the petitioner, respondent and their respective counsel. The learned counsel for respondent filed a compounding petition before this Court in Crl.M.P.No.11466 of 2024 in Crl.R.C.No.1309 of 2024 invoking Section 147 of the Negotiable Instruments Act, 1881 to compound the offence and the same is ordered.

7.In the result, the case between the petitioner and the respondent is compounded. Hence, the judgment, dated 19.12.2022 in C.C.No.157 of 2019, passed by the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Alandur, Chennai and the judgment dated 05.04.2024 in C.A.No.40 of 2023 passed by the learned Principal District and Sessions



Crl.R.C.No.1309 of 2024

Judge, Chengalpattu are set aside and the revision is, accordingly, allowed.

WEB COPY

The petitioner is acquitted of all the charges levelled against him.

Consequently, connected miscellaneous petition is closed.

8.The Superintendent of Central Prison, Puzhal, Chennai is directed to release the petitioner forthwith, if he is not required in any other case.

12.08.2024

Index : Yes/No

Internet : Yes/No

Speaking order / Non-speaking order

Neutral citation : Yes/No

rsi

Note: Issue order copy on 12.08.2024.

To

- 1.The Judicial Magistrate,
Fast Track Court (Magisterial Level),
Alandur, Chennai.
- 2.The Principal District and Sessions Judge,
Chengalpattu.
- 3.The Superintendent,
Central Prison, Puzhal, Chennai.



WEB COPY



Crl.R.C.No.1309 of 2024

M.NIRMAL KUMAR, J.

rsi

Crl.R.C.No.1309 of 2024

and

Crl.M.P.Nos11338 and 11466 of 2024

12.08.2024