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Crl.R.C.Nos.2235, 2248, 2253 & 2254 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.Nos.2235, 2248, 2253 & 2254 of 2023

and

Crl.M.P.Nos.5277, 5279, 5280, 5281, 20080, 20085, 20100
& 20103 of 2023

Jaiganesh

... Petitioner in all Crl.RCs.

Vs.

E.Babu (died)

S/o.Eesanatha Mudaliar

1. Kanyaraj

2. Yeswanthraj

3. Chindu Rekha

(1 to 3 are legal heirs of E.Babu)

... Respondents in all Crl.RCs

Prayer: Criminal Revision Petitions filed under Sections 397 r/w. 401 of Criminal Procedure Code, to call for the records relating to the judgment dated 23.09.2022 passed by the learned Additional District and Sessions Judge, Arani in C.A.Nos.27, 29, 26 & 28 of 2015 respectively confirming the judgment passed by the learned Judicial Magistrate, Arani dated 06.08.2015 in C.C.Nos.11, 110 & 111 of 2011, 338 of 2010 respectively and set aside the same.



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For Petitioner : Mr.D.Bennington
in all Crl.RCs

For Respondent : M/s.Umme Ruman
in all Crl.RCs

COMMON ORDER

The petitioner was convicted by the learned Judicial Magistrate, Arani (trial Court) dated 06.08.2015 in C.C.Nos.11, 110 & 111 of 2011, 338 of 2010 respectively and sentenced to undergo Simple Imprisonment for one year and to pay compensation of Rs.3,00,000/- to the respondent, in default to undergo Simple Imprisonment for two months 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 Additional District and Sessions Judge, Arani (lower appellate Court) in Crl.As.27, 29, 26 & 28 of 2015 respectively. The lower appellate Court, by order, dated 23.09.2022 dismissed the appeal for default. Against which, the present Criminal Revision Cases are filed.

2.Gist of the case is that the petitioner borrowed a sum of Rs.16,00,000/- as hand loan from the respondent for his business requirement. The petitioner was Pepsi dealer and Vodafone agency, for the



loan issued cheques in repayment of the entire amount, the petitioner promised to pay Rs.16,00,000/-. On 22.10.20210, the petitioner issued two cheque Nos.071001 & 071002 for a sum of Rs.3,00,000/-, and Rs.3,00,000/-, on 22.01.2011 issued one cheque No.000082 for a sum of Rs.5,00,000/- and on 22.02.2011 issued one cheque No.000083 for a sum of Rs.5,00,000/- respectively to the respondent. When the respondent presented the cheques for encashment in State Bank of India, Arani Branch, the same were returned 'Funds Insufficient' with a return memo, dated 22.12.2010, 23.11.2010 & 23.03.2011. Thereafter, the respondent sent a legal notice to repay the cheque amount, but the petitioner not paid the cheque amount, but sent reply with false details, which was ignored. After following the statutory provisions, the respondent filed a complaint before the trial Court for offence under Section 138 of the Negotiable Instruments Act, 1881 in C.C.Nos.11, 110 & 111 of 2011, 338 of 2010. During trial, the respondent examined himself as PW1 and marked six documents as Exs.P1 to P6. On the side of the petitioner/defence, no witness examined and no document marked. On conclusion of trial, the trial Court convicted the petitioner as stated above.



3.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 C.A.Nos.27, 29, 26 & 28 of 2015 respectively and the same were dismissed on 23.09.2022. He further submitted that though the cheque amount is Rs.16,00,000/-, now the issue resolved between the petitioner and the respondent for a sum of Rs.4,00,000/-. The petitioner has filed a Joint Memo of Compromise confirming that they have settled the dispute amicably and the accused had paid a sum of Rs.4,00,000/- towards full and final settlement. The respondent agreed to the settlement, considering the petitioner sustaining loss in the business and his present financial capability.

4.The respondent received the above said amount of Rs.4,00,000/- and made acknowledgement. Thus, the amount of Rs.4,00,000/- settled petition under Section 147 Cr.P.C., in Crl.M.P.Nos.5277, 5279, 5280, 5281, 20080, 20085, 20100 & 20103 of 2023 in Crl.R.C.Nos.2235, 2248, 2253 & 2254 of 2023 to compound the offence filed. Hence, he prays for setting aside the judgment of the trial Court as well as the impugned order passed



by the lower appellate Court.

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5.The learned counsel for the respondents confirmed the receipt of Rs.4,00,000/- and the respondent agreed to give quietus to the dispute between them. He further submitted that to compound the offence, petition under Section 147 of the Negotiable Instruments Act, 1881 in Crl.M.P.Nos.5277, 5279, 5280, 5281, 20080, 20085, 20100 & 20103 of 2023 in Crl.R.C.Nos.2235, 2248, 2253 & 2254 of 2023 filed to compound the complaint.

6.Today, the petitioner and respondent present before this Court. This Court enquired both the petitioner and the respondents. The respondent reaffirmed the receipt of Rs.4,00,000/- from the petitioner and filing of compounding petition.

7.In view of the above development and in the interest of both the parties not to keep these proceedings pending since it will affect future life of the petitioner and the offence a compoundable one, this Court is inclined



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to compound the case.

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8.In the result, the case between the petitioner and the respondents is compounded. Hence, the judgment of the trial Court, dated 06.08.2015 in C.C.Nos.11, 110 & 111 of 2011, 338 of 2010 respectively are set aside. The impugned order, dated 23.09.2022 in C.A.Nos.27, 29, 26 & 28 of 2015 respectively passed by the lower appellate Court is also set aside. The petitioner is acquitted of all the charges levelled against him. Accordingly, this Criminal Revision Cases stand allowed. The connected Criminal Miscellaneous Petitions are also allowed.

22.03.2024

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

rpl

To

1.The Additional District and Sessions Court,
Arani.

2.The Judicial Magistrate,
Arani

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M.NIRMAL KUMAR., J.

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