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Crl.R.C.No.275 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2024

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.275 of 2024 and
Crl.M.P.Nos.2673, 2676 & 2821 of 2024

S.Srinivasa Rao

... Petitioner

Vs.

K.Dharmalingam

... Respondent

Prayer: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to call for the records on the file of learned Additional Sessions Judge, Vellore @ Thirupattur, Vellore District in Crl.A.No.81/2019 dated 15.09.2022 and confirming the judgment and sentence passed in S.T.C.No.699/2017 on the file of the learned Judicial Magistrate, Vaniyambadi, Vellore District dated 31.07.2019 and set aside the judgment, dated 15.09.2022.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mr.E.Balasubramani

ORDER

The petitioner was convicted by the learned Judicial Magistrate, Vaniyambadi (trial Court) by judgment, dated 31.07.2019 in S.T.C.No.699 of 2017 and sentenced to undergo Simple Imprisonment for six months Simple Imprisonment and to pay the cheque amount as compensation of



Rs.6,50,000/- to the respondent within two months, in default to undergo Simple Imprisonment for one month for offence under Section 138 of the Negotiable Instruments Act, 1881. Aggrieved over the same, an appeal was preferred by the petitioner before the learned III Additional Sessions Judge, Vellore @ Tirupattur (lower appellate Court) in Criminal Appeal No.81 of 2019. The lower appellate Court, by judgment, dated 15.09.2022 dismissed the appeal confirming the judgment of the trial Court. Challenging the same, the present Criminal Revision Case is filed.

2.The gist of the case is that the petitioner/accused herein borrowed a sum of Rs.6,50,000/- from the respondent/complainant for his urgent expenses on various dates. In discharge of the said liability, the petitioner issued two cheques bearing No.212365 (Ex.P1), dated 17.02.2017 for Rs.1,50,000/- and another cheque No.303924 (Ex.P2), dated 17.02.2017 for Rs.5,00,000/-. As per advice of the petitioner, the respondent presented the cheques on 06.05.2017 at Karur Vysya Bank, Vaniyambadi Branch. The said cheques were returned on 08.05.2017 with an endorsement as 'Stop Payment by Drawer'. The respondent issued legal notice, dated 23.05.2017



to the petitioner and the same was received by the petitioner on 23.05.2017 and gave reply on 07.06.2017. Not satisfying with the reply notice, the respondent filed a complaint under Section 138 of the Negotiable Instruments Act, 1881 in S.T.C.No.699 of 2017 before the trial Court. The trial Court on the evidence and materials produced convicted the petitioner as stated above.

3.Today, this Court has passed the following order at the time of condoning the delay:

“This petition has been filed to condone the delay of 296 days in filing the above revision petition.

2.The learned Counsel for petitioner submitted that the total cheque amount is Rs.6,50,000/-, out of which 20% of the amount i.e., Rs.1,30,000/- was deposited before the Trial Court at the time of appeal and now the balance is Rs.5,20,000/-. He would submit that after negotiation, the petitioner's family members and the respondent agreed for Rs.6,00,000/- to be paid by the petitioner. The petitioner is now in confinement.

3.Learned counsel for the respondent confirms the same.

4.In view of the above, the delay is condoned and this



petition is ordered. The Registry is directed to number the revision, if it is otherwise in order.”

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

5.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 Criminal Appeal No.81 of 2019 and the same was dismissed on 15.09.2022. He further submitted that the total cheque amount is Rs.6,50,000/-, out of which 20% of the amount i.e., Rs.1,30,000/- was deposited before the trial Court at the time of appeal before the lower appellate Court and now, the balance is Rs.5,20,000/-. He would submit that after negotiation, the issues between the petitioner's family members and the respondent resolved. The petitioner's family members and the respondent agreed for Rs.6,00,000/- to be paid by the petitioner. Today, the balance cheque amount of Rs.5,20,000/- along with expenses for a sum of Rs.55,000/- paid by the wife of the petitioner to the respondent in cash. Thus, the entire cheque amount has been settled to the respondent and the



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respondent has also filed the petition under Section 147 Cr.P.C., in Crl.M.P.No.2821 of 2024 in Crl.R.C.No.275 of 2024 to compound the offence. Added to it, the wife of the petitioner and the respondent filed joint compromise memo. Hence, he prays for setting aside the judgments of the trial Court as well as the lower appellate Court. Now, the petitioner is confined in the Central Prison, Vellore.

6.The learned counsel for the respondent confirmed the submissions of the learned counsel for the petitioner and also confirmed the receipt of the balance cheque amount. The respondent is agreed to give quites to the dispute between with the petitioner. 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.2821 of 2024 in Crl.R.C.No.275 of 2024 to withdraw the complaint.

7.For better appreciation, the joint compromise memo filed by the wife of the petitioner and the respondent is as follows:



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“1. The wife of the petitioner/accused and the respondent/complainant submit that the petitioner was convicted by the learned Judicial Magistrate, Vaniyambodi, Vellore District in S.T.C.No.699/2017 and sentenced him to undergo Simple Imprisonment for six months and to pay a cheque amount of Rs.6,50,000/- as compensation in default to undergo Simple Imprisonment for one month.

2. Aggrieved over the judgment and sentence passed by the learned Judicial Magistrate, Vaniyambodi, Vellore District in S.T.C.No.699/2017 he preferred an appeal before the learned III Additional Sessions Judge, Vellor @ Tirupattur, Vellore District in Crl.A.No.81/2019 and the learned III Additional Sessions Judge, Vellore @ Tirupattur, Vellore District directed the petitioner to deposit the 20% of the cheque amount before the trial Court. As per the direction of the Lower Appellate court, he deposited 20% of the cheque amount of Rs.1,30,000/- before the trial Court and the same was withdrawn by the respondent/complainant. After hearing both sides, the Lower Appellate Court conformed the judgment and sentence passed by the Trial Court on 15.09.2022.

3. Aggrieved over the judgment and sentence passed by the Trial and Lower Appellate Court he preferred a revision before this Court in Crl.R.C.No.275/2024 with condone delay



petition and the same is pending before this Hon'ble court, during pendency of the case he was arrested by the Vanyambadi Town Police, on execution of warrant. Now he is in Central Prison, Vellore from 03.02.2024.

4. The wife of the petitioner and the respondent submits that now both the parties arrived amicable settlement from out of court, the wife of the petitioner is agreed to pay a balance cheque amount of Rs.5,20,000/- along with expenses for a sum of Rs.55,000/- today i.e. 14.02.2024 by way of cash and the respondent/complainant also received the same.

5. The wife of the petitioner/accused and the respondent/complainant submit that the respondent has no objection to set aside the conviction and sentence imposed by the trial court and both of them have come forward and filing this joint compromise memo before this Hon'ble court.

It is therefore prayed that this Hon'ble court may be pleased to accept the joint compromise memo filed by the wife of the petitioner/accused and the respondent/complainant and dispose the above said Crl.R.C.No.275/2024 pending on the file of this Hon'ble court and pass such further or other orders and thus render justice.”



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8.Today, the wife of the petitioner and respondent present before this Court. This Court had enquiry with both the wife of the petitioner and the respondent. The respondent reaffirmed the receipt of balance cheque amount from the wife of the petitioner and filing of compounding petition.

9.The respondent/complainant has filed a compounding petition before this Court in Crl.M.P.No.2821 of 2024 in Crl.R.C.No.275 of 2024 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 learned Judicial Magistrate, Vaniyambadi (trial Court), dated 31.07.2019 in S.T.C.No.699 of 2017 and



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the judgment of the learned III Additional Sessions Judge, Vellore @
Thirupathur, Vellore (lower appellate Court), dated 15.09.2022 in Criminal
Appeal No.81 of 2019 are set aside. The petitioner is acquitted of all the
charges levelled against him. Bail bond if any executed shall stand
cancelled. The petitioner is ordered to be released forthwith. The petitioner
is confined in Central Prison, Vellore.

12. Accordingly, this Criminal Revision Case stands allowed.
Consequently, the connected Miscellaneous Petitions are closed.

14.02.2024

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

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To

1. The III Additional Sessions Judge,
Vellore @ Tirupattur.

2. The Judicial Magistrate,
Vaniyambadi.



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3.The Central Prison,
Vellore.

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