



CrI.R.C.No.2104 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.R.C.No.2104 of 2023
and
CrI.M.P.No.20124 of 2023

Sekar

... Petitioner

Vs.

Arun

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to call for the records relating to the judgment dated 31.10.2023 passed in C.A.No.02 of 2023 on the file of the Principal District and Sessions Judge, Cuddalore confirming the judgment dated 12.12.2022 passed in STC.No.748 of 2019 on the file of the learned Judicial Magistrate No.I, Cuddalore and set aside the same.

For Petitioner : Mr.S.T.Raja

For Respondent : Mr.V.Mukeshkumar



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ORDER

The petitioner was convicted by judgment, dated 12.12.2022 in S.T.C.No.748 of 2019 by the learned Judicial Magistrate No.I, Cuddalore for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo six months Simple Imprisonment and to pay a compensation of Rs.7,00,000/- to the respondent in default, to undergo three months Simple Imprisonment. Aggrieved over the judgment of the trial Court, an appeal was preferred by the petitioner before the learned Principal District and Sessions Judge, Cuddalore in C.A.No.02 of 2023. The learned Principal District and Sessions Judge, by judgment dated 31.10.2023 dismissed the appeal, confirming the judgment of the trial Court, against which the present revision.

2.The gist of the case is that the petitioner approached the respondent and borrowed a sum of Rs.7,00,000/- for his family expenses. In discharge of said liability, he issued a cheque dated 13.02.2019 for Rs.7,00,000/-. When the cheque was presented for encashment, the same was returned for



the reason 'Insufficient Funds'. After following the statutory conditions, complaint was filed by the respondent.

3.During trial, the respondent examined himself as P.W.1, Bank Manager as P.W.2 and marked Ex.P1 to Ex.P5. On the side of the petitioner, he examined himself as D.W.1 and marked Ex.D1. The trial Court on conclusion of trial found the petitioner guilty and convicted him as stated above.

4.The learned counsel for the petitioner submitted that the petitioner had not borrowed such huge amount from the respondent/complainant. He would submit that the respondent is total stranger to him and for some other dispute, with the aid of the Police the cheque was forcibly taken which thereafter landed in the hands of the respondent and a false case was foisted against him. But the Trial Court as well as the Lower Appellate Court failed to consider the same despite the petitioner probalizing his defence.

5.Though very many grounds have been raised by the petitioner, since



he is a Teacher employed in a Government School and not to further complicate the issues, the petitioner arrived at a settlement with the respondent/complainant and now the issue between them had been resolved. The respondent who is present before this Court also admits about the compromise and further submits that he received a sum of Rs.4,66,666/- from the petitioner. Further, this Court by order dated 08.12.2023 in Crl.M.P.No.19232 of 2023 suspended the sentence imposed on the petitioner on condition that the petitioner deposit 1/3rd of Rs.7,00,000/-. In compliance of the order passed by this Court, the petitioner had already deposited a sum of Rs.2,33,334/- to the credit of S.T.C.No.748 of 2019 before the learned Judicial Magistrate No.I, Cuddalore and the same is confirmed by the respondent/complainant.

6.The respondent has filed compounding petition along with affidavits before this Court in Crl.M.P.No.20124 of 2023 in Crl.R.C.No.2104 of 2023 invoking Section 147 of the Negotiable Instruments Act, 1881 to compound the offence and the same is ordered.



7.This Court had an enquiry with both the petitioner and the respondent. The respondent reaffirmed the compromise entered with the petitioner.

8.In view of the compromise entered between the petitioner and the respondent, the case between the petitioner and the respondent is compounded. Hence, the judgment, dated 12.12.2022 in S.T.C.No.748 2019, passed by the learned Judicial Magistrate No.I, Cuddalore and the judgment dated 31.10.2023 passed by the learned Principal District and Sessions Judge, Cuddalore in C.A.No.02 of 2023 are set aside and the revision is, accordingly, allowed. The petitioner is acquitted of all the charges levelled against him.

9.It is made clear that it is only a dispute with regard to borrowing of money and the manner in which the cheque has been presented and by force collection has been made. Since this Court compounded the offence discharged the petitioner from all offences, no adversity of the above case can be quoted against the petitioner in any manner.



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10.Further, the respondent/complainant is at liberty to withdraw the amount of Rs.2,33,334/- lying to the credit of S.T.C.No.748 of 2019 on the file of the learned Judicial Magistrate No.I, Cuddalore and the Lower Court can dispense with notice to the petitioner/accused.

02.01.2024

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

To

- 1.The Judicial Magistrate No.I,
Cuddalore.
- 2.The Principal District and Sessions Judge,
Cuddalore.



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M.NIRMAL KUMAR, J.

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