



Crl.R.C.No.2234 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.2234 of 2023
and Crl.M.P.No.3488 of 2024

R.Bharathiraja

... Petitioner

Vs.

H.Chandrasekaran

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to set aside the judgment dated 04.09.2023 passed in Crl.A.No.21 of 2023 on the file of the learned Additional District and Sessions Judge at Tiruvannamalai against the judgment dated 28.02.2023 passed in C.C.No.68 of 2022 on the file of the learned Judicial Magistrate of Fast Track Court (Magisterial Level), Tiruvannamalai.

For Petitioner : Mr.K.Gangadaran

For Respondent : Mr.R.Mohan



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ORDER

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The petitioner was convicted by judgment, dated 28.02.2023 in C.C.No.68 of 2022, by the Judicial Magistrate of Fast Track Court (Magisterial Level), Tiruvannamalai, for offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo six months Simple Imprisonment and to pay a compensation of Rs.2,55,000/- to the respondent in default, to undergo one month Simple Imprisonment. Aggrieved over the judgment of the trial Court, an appeal was preferred by the petitioner before the learned Additional District and Sessions Judge at Tiruvannamalai in Crl.A.No.21 of 2023. The learned Additional District and Sessions Judge at Tiruvannamalai by judgment dated 04.09.2023, dismissed the appeal, confirming the sentence and modified the compensation amount from Rs.2,55,000/- to Rs.2,19,000/-, against which the present revision.

2.Gist of the case is that the petitioner/accused was known to the respondent/complainant through one Velebandan, friend of complainant. and the respondent are known for several years. The petitioner/accused had borrowed a sum of Rs.1,70,000/- has hand loan in the month of May 2021



as business expenses assuring to return with a period of one year.

Thereafter, the respondent approached the accused for repayment. In discharge of said liability, he issued a cheque for Rs.1,70,000/- bearing No.822902, dated 25.05.2022 drawn on Indian Bank, Thanipadi Branch, Tiruvannamalai District. When the cheque was presented for encashment, the same was returned for the reason 'Funds Insufficient'. Thereafter, statutory notice was sent to the petitioner on 17.06.2022, the petitioner received the notice on 18.06.2022. The accused neither issued a reply notice nor paid the cheque amount. Hence, the complaint was lodged by the respondent.

3.During trial, the respondent examined himself as PW1 and marked four documents, namely, Cheque, Return Memo, Statutory notice, Acknowledgement Card (Exs.P1 to P4). On the side of the petitioner, the petitioner himself was examined as D.W.1 Ravi, S/o. Ramalingam was examined as D.W.2 and Velavendhan S/o Shanmugam was examined as D.W.3 and marked five documents, namely, Daily Installment Card in the name of the accused, Customer's record slip of Indian Overseas Bank dated



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18.10.2021, Customer's record slip of Indian Overseas Bank dated 30.12.2021, receipt of Rs.6000/- on 02.07.2022 and Rs.18000/- on 08.08.2022 (Exs.D1 to D5).

4.The trial Court on conclusion of trial found the petitioner guilty and convicted him and sentenced to undergo six months Simple Imprisonment and to pay a compensation of Rs.2,55,000/- to the respondent, in default, to undergo one month Simple Imprisonment. Aggrieved over the judgment of the trial Court, an appeal was preferred by the petitioner before the learned Additional District and Sessions Judge at Tiruvannamalai in Crl.A.No.21 of 2023. The learned Additional District and Sessions Judge at Tiruvannamalai by judgment dated 04.09.2023, dismissed the appeal, confirming the sentence and modified the compensation amount from Rs.2,55,000/- to Rs.2,19,000/-, against which, the present revision.

5.Today, the petitioner and the respondent are present before this Court. The respondent/complainant admits the Joint Compromise memo entered between them to the value of Rs.1,60,000/- out of cheque amount of



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Rs.1,70,000/-, from the petitioner and agreeing to give quietus to the issue.

The petitioner has given a sum of Rs.24,000/- as cash in person to the respondent. This fact has been admitted by both the petitioner as well as the respondent. Further, the petitioner/accused has already deposited a sum of Rs.1,36,000/- to the credit of C.C.No.68 of 2022 before the Trial Court which the respondent can withdraw by filing an appropriate petition, the petitioner/accused has no objection and has given consent for the same.

6.The petitioner has filed compounding petition along with affidavits before this Court in Crl.M.P.No.3488 of 2024 in Crl.R.C.No.2234 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, Joint Compromise memo entered between them and the receipt of Rs.1,60,000/- from the petitioner/accused.



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8.In the result, the case between the petitioner and the respondent is compounded. Hence, the judgment, dated 28.02.2023 in C.C.No.68 of 2022, passed by the learned Judicial Magistrate of Fast Track Court (Magisterial Level), Tiruvannamalai and the judgment dated 04.09.2023 passed by the learned Additional District and Sessions Judge at Tiruvannamalai in Crl.A.No.21 of 2023 are set aside and the revision is, accordingly, allowed. The respondent/complainant is permitted to withdraw the amount of Rs.1,36,000/- lying in the credit of C.C.No.68 of 2022 by filing an appropriate petition before the Trial Court. Notice to the petitioner/accused is dispensed with. The petitioner is acquitted of all the charges levelled against him.

15.02.2024

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



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To
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- 1.The Additional District and Sessions Judge
Tiruvannamalai.

- 2.The Judicial Magistrate of Fast Track Court
(Magisterial Level),
Tiruvannamalai



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M.NIRMAL KUMAR, J.

dhk

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