



Crl.R.C.(MD)No.477 of 2023
and Crl.M.P(MD)No.3449 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 26.07.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C.(MD)No.477 of 2023
and
Crl.M.P(MD)No.3449 of 2024

I.Vethakkan Pious

... Petitioner/Appellant/Accused

Vs.

A.K.Tayala Kannan

... Respondent/Respondent/Complainant

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records pertaining to the Judgment dated 15.03.2023 made in Crl.A.No.11 of 2021 on the file of the Principal Sessions Judge, Thoothukudi confirming the Judgment dated 11.02.2020 made in S.T.C.No.622 of 2016 on the file of the Judicial Magistrate Court, Saathankulam against the above petitioner and set aside the same.

For Petitioner : Mr.S.R.Anbarasu

For Respondent : Mr.B.N.Raja Mohamed

* * * * *



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ORDER

This Criminal Revision Case has been filed set aside the Judgment dated 15.03.2023 made in Crl.A.No.11 of 2021 on the file of the Principal Sessions Judge, Thoothukudi confirming the Judgment dated 11.02.2020 made in S.T.C.No.622 of 2016 on the file of the Judicial Magistrate Court, Saathankulam against the petitioner.

2. The case of the prosecution is that the petitioner and the complainant were close friends for the past two years. On 13.03.2015, the petitioner came to the complainant's house and asked a hand loan of Rs.7,00,000/- for his business needs and to purchase some property and on the promise to repay the loan amount on 13.03.2016, the petitioner received the loan amount of Rs.7,00,000/-. Thereafter, the petitioner failed to repay the loan amount as promised by him, the complainant had contacted the accused over phone on 13.03.2016 and demanded the money. On 19.03.2016 the petitioner came to the complainant's house and issued a cheque drawn on Indian Overseas Bank, Valliyoor branch bearing No. 240405 for a sum of Rs.7,00,000/-. The cheque was presented for collection by the complainant through his Bank, namely, Pandian Grama Bank, Thattarmadam



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on 19.03.2016 and the same was returned for the reason "funds insufficient" and the return memo was received by the complainant on 23.03.2016. On 19.04.2016, the petitioner came to the complainant's house and requested to re-deposit the cheque. The complainant has re-deposited the cheque on 20.04.2016 and the said cheque was again dishonoured for the reason "funds insufficient" and the return memo was received by the complainant 25.04.2016. Hence, on 13.05.2016 the complainant had sent a legal notice and the petitioner sent a reply notice on 10.06.2016 with false averments but accepted the signature found in the cheque issued by him. Hence, the complainant has filed a complaint against the accused under section 138 of Negotiable Instrument Act, 1881.

3. Thereafter, on receipt of the summons, the petitioner appeared and contested the case. The learned Trial Judge after following the procedure, examined P.W.1 and P.W.2 and marked the documents Ex.P.1 to Ex.P.14 on the side of the complainant and 3 witnesses were examined and 4 documents were marked on the side of the accused and passed the conviction under Section 138 of Negotiable Instruments Act to undergo 9 months Simple Imprisonment and to pay a fine amount of Rs.7,00,000/- as compensation to the complainant within two months, in default, to undergo 6 months Simple Imprisonment by the



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Judgment dated 11.02.2020.

4. Aggrieved over the same, the petitioner filed the Criminal Appeal in C.A.No.11 of 2021 on the file of the learned Principal Sessions Judge, Thoothukudi. The learned Appellate Judge also confirmed the same. Hence, the petitioner preferred this revision before this Court.

5. Today, when the matter is taken up for hearing, both counsel on record would submit that they have already filed joint memo of compromise, which is extracted here under:-



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LAC No 110/2023
09/12/2023

IN THE COURT OF HON'BLE SUB ORDINATE JUDGE
THIRUCHENDUR
O.S.No.109/2019

A.K.Dayalakannan ... Plaintiff

Vethakkan Pius ... Defendant

JOINT MEMO OF COMPROMISE

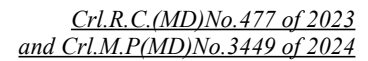
The Plaintiff and the Defendant in the above case jointly submit the following Compromise Memo and submit the following :

1. That the plaintiff has filed the above suit O.S.No.109/2019 before this Hon'ble Court against the Defendant herein since the Cheque bearing No 240405 dated 19.03.2016 drawn on IOB, Vellore for a sum of Rs 7,00,000/- (Rupees Seven Lakhs only) issued by the defendant in favour of the Plaintiff was returned unpaid by his Bank.



T. Vethakkan Pius

Defendant



2. As mentioned in the Plaintiff side that in respect of the dishonour of the above said cheque, the Plaintiff herein as a Complainant filed a criminal case under Sec.138 of the Negotiable Instrument Act, against the Defendant herein in STC No.622 of 2016 in the Court of Hon'ble Judicial Magistrate, Sattankulam and by its judgement dated 11.02.2020, the said Court convicted the accused/ defendant herein.

3. That as against the said conviction, the defendant herein filed Appeal Petition in Cri.A.No.11 of 2021 before the Hon'ble Principal sessions judge. Thoothukudi in Cri.A.No.11 of 2021 and pending said appeal as directed by the said Court, the appellant/defendant herein deposited a sum of Rs.70,000/- (Rupees Seventy Thousand only) vide receipt dated., 10.02.2021 with No 2508659 in the Court of J.M., Sattankulam. However the above said





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appeal in Crl.A.No.11 of 2021 was dismissed by the said Court on 15.03.2023.

4. That as against the judgement of the Sessions Court in Crl.A.No.11 of 2021, the defendant herein has filed a Criminal Revision Petition before the Honourable Madurai bench of Madras High court in CRL MP (MD) Nos. 6987 & 6989 of 2023 in CRL RC (MD) No.477 of 2023 challenging the judgement dated 15.03.2023 made in Crl.A.No 11 of 2021 made by the Hon'ble principal sessions judge, Thoothukudi confirming the judgement dated 11.02.2020 made in STC No.622 of 2016 on the file of learned judicial magistrate court, Sathankulam. Accordingly the relief of suspension is granted to the petitioner with conditions. The defendant paid sum of Rs.3,50,000/- (Rupees Three Lakhs and Fifty Thousand only) to the credit in S.T.C No. 622 of 2016 on the file of the learned JM, Sathankulam vide

Receipt No.4013550 dated 15.05.2023. The said



Plaintiff

Defendant



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Criminal Revision Petition is now pending in the Hon'ble
High Court, Madurai

5. Pending trial of the above suit in O.S.No.109/2019 at
the intervention of their well wishers and relatives, now
the Plaintiff and Defendant have settled their disputes
amicably with the following terms and conditions:

A. The Defendant agrees to pay the Plaintiff a sum of
Rs.7,00,000/- (Rupees Seven Lakhs only) towards the
full and final settlement of the disputes which arose out
of the dishonour of the Cheque bearing No.240405
dated 19.03.2016 drawn on IOB, Valliyoor.

B. As agreed between the plaintiff and the defendant,
today, the Defendant has delivered a Demand Draft
No.592799 dated 07.12.2023 drawn on State Bank of
India, Valliyoor Branch for a sum of Rs.7,00,000/- in
favour of Plaintiff and the Plaintiff acknowledges the
receipt of the same.



Plaintiff

Intervention by

Defendant



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C. The Plaintiff agrees to settle Suit in O.S.No.109/2019 pending against the Defendant.

D. The Plaintiff & defendant both further agrees to make necessary representation before the Hon'ble High Court, Madurai in CRL RC(MD) No 477 of 2023 and report about this settlement to the knowledge of the Hon'ble High court.

E. The Defendant has made two deposits, namely, Rs.70,000/- (Rupees Seventy Thousand only) as per the order of the Sessions Court, Thoothukudi and a further sum of Rs.3,50,000/- (Rupees Three Lakhs and Fifty Thousand only) deposited as per the direction of the Hon'ble High Court, Madurai. The plaintiff agrees that he has no objection for withdrawal of those amounts by the Defendant from the concerned courts on filing of necessary refund, cheque petitions before



[Signature]
Plaintiff

[Signature]

Defendant



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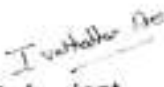
the concerned courts. Both parties hereby agreed that entire court fee may be refunded to the plaintiff in this suit.

F. The Plaintiff and Defendant confirms that they have no other claim whatsoever against each other.

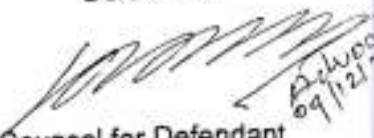
Hence it is prayed that the above settlement terms be recorded and Lok adalat award be passed accordingly

Dated at Thiruchendur on this 9th day of December, 2023.


Plaintiff


Defendant


(A.V. John)
Date: 09/12/2023
Counsel for Plaintiff


Counsel for Defendant



R.SUDHAGAR, B.A., LL.B.
ADVOCATE
WHITE HORSE LAW ASSOCIATES
96B, ST - 4th SOUTH MAIN ROAD,
VALLUOR, RADHAPURAM TALUK,
TIRUNELVELI - 627117
CELL : 9488988100

Date : 09/12/2023

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CHAIRMAN
SUBORDINATE JUDGE
TAMIL LEGAL SERVICES COMMITTEE
SUB COURT BUILDINGS
TIRUCHENDUR - 628 215

11/10/23



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6.The contents of the above joint compromise memo are read over and explained to both the parties and they would admit the same. The joint compromise memo filed by both the parties is recorded.

7.In view of the compromise entered between the parties, the offence under Section 138 of Negotiable Instruments Act stands compounded under Section 147 of the Negotiable Instruments Act.

8. Accordingly, the conviction and sentence imposed in Crl.A.No.11 of 2021 on the file of the learned Principal Sessions Judge, Thoothukudi dated 15.03.2023 confirming the Judgment passed in S.T.C.No.622 of 2016 dated 11.02.2020 on the file of the learned Judicial Magistrate, Saathankulam is hereby set aside and the Criminal Revision Case is allowed. The accused is acquitted from the charges levelled against him. Bail bond if any, executed by the accused shall stand discharged. Consequently, connected miscellaneous petition is closed.

26.07.2024

NCC : Yes/No
Index : Yes/No
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To

- 1.The learned Principal Sessions Judge, Thoothukudi.
- 2.The learned Judicial Magistrate, Saathankulam.
- 3)The Section Officer,
Record Section (Criminal),
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

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