



Crl.R.C.(MD).No.256 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.04.2024

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C.(MD).No.985 of 2023
and
Crl.M.P.(MD).No.13394 of 2023

M.Mujibur Rahman

... Petitioner /Appellant/
Accused

Vs.

N.T.Sukumaran

... Respondent/Respondent/
Complainant

PRAYER : Criminal Revision Petition filed under Section 397 and 401 of Criminal Procedure Code, to call for the records and set aside the judgment made in C.A.No.34 of 2017 by the Additional District and Sessions Court, Palani dated 03.08.2018 confirming the judgment of conviction and sentence made in C.C.No.72 of 2015 by the Fast Track Court (Magisterial Level), Palani, dated 12.01.2017.

For Petitioner : Mr.D.Venkatesh

For Respondent : Mr.C.Gangai Amaran



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ORDER

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This Criminal Revision Case has been filed to set aside the judgment made in C.A.No.34 of 2017 by the Additional District and Sessions Court, Palani dated 03.08.2018 confirming the judgment of conviction and sentence made in C.C.No.72 of 2015 by the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Palani, dated 12.01.2017.

2. The petitioner borrowed a sum of Rs.5,00,000/- from the respondent on 14.03.2015. To discharge the said debt, he issued a cheque dated 10.06.2015 drawn on the bank of IDBI Bank, Palani Branch. The respondent presented the cheque before the Bank on the above date itself and the said cheque was returned with an endorsement of “Insufficient Funds”. Therefore, the respondent issued the legal notice on 16.06.2015. Even though the petitioner received the same on 17.06.2015, he neither sent any reply nor made payment. In such circumstances, the respondent filed a complaint under Section 138 r/w. 142 of Cr.P.C., before the learned Judicial Magistrate, Fast Track Court, Palani. The learned Judicial Magistrate taken the complaint on file in C.C.No.72 of 2015.



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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 & D.W.1 to D.W.3 and perused the documents Ex.P.1 to Ex.P.5 and passed the conviction under Section 138 of Negotiable Instruments Act to undergo 6 months Simple Imprisonment and to pay a fine amount of Rs.5,00,000/- to the respondent as compensation within a period of two months thereafter, in default, to undergo 2 months Simple Imprisonment by the Judgment dated 12.01.2017.

4. Aggrieved over the same, the petitioner filed the Criminal Appeal in C.A.No.34 of 2017 on the file of the Additional District and Sessions Court, Palani. The learned Appellate Judge also confirmed the same. Hence, the petitioner preferred this revision before this Court.

5. Today, the parties are present before this Court and stated that compromise was reached between them and hence, the respondent received Rs.5,00,000/- from the petitioner. Further, an affidavit has been filed by the respondent stating that he has received the entire cheque amount (i.e) Rs.5,00,000/- from the petitioner and hence, he agreed to compound the case as



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against the petitioner. The said affidavit is extracted here under:-

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IN THE HIGH COURT OF JUDICATURE MADRAS AT MADURAI BENCH
(Criminal Original Jurisdiction)
CRL.MD.(MD) NO. 256 OF 2023
In
CRL.R.C.(MD) NO. 256 OF 2023

M. Mujibur Rahman,
S/o. Mohamed Sait,
No.17, Ideal Shoe Mart,
Opp. Ariyabavan Hotel,
Dindigul Road, Palani,
Dindigul District,

PETITIONER/PETITIONER

VS

N.T. Sukumaran,
S/o. Thangavel,
No.303/W1, Palaniyandavar Nagar,
Palani, Dindigul District.

RESPONDENT/RESPONDENT

AFFIDAVIT OF N.T. SUKUMARAN

I, N.T. Sukumaran, S/o. Thangavel, Hindu, aged about 55 years,
residing at No.303/W1, Palaniyandavar Nagar, Palani, Dindigul District and
do hereby solemnly affirm and sincerely state as follows:

1. I submit that I am the respondent in the above case and as such I
know the facts of the case very well.

2. I submit that I filed a private complaint under section 138 of the
Negotiable Instruments Act as against the petitioner herein.

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3 The case was taken on file in C.C.NO.72 of 2015 by the Fast Track Court (Magisterial Level), Palani. The petitioner was convicted and sentenced to undergo simple imprisonment for 6 months and was directed to pay cheque amount being a sum of Rs.5,00,000/- as compensation with default sentence.

3. I submit that aggrieved by the same, the petitioner preferred an appeal in C.A.NO.34 of 2017 before the Additional District & Sessions Judge, Palani. However the appeal was dismissed. As against the same, the petitioner has preferred the present criminal revision case before this Honorable Court. In the meantime, a compromise talk was held in presence of our well wishers to settle the dispute amicably.

4. I submit that as per the same, I agreed to receive the cheque amount being a sum of Rs.5,00,000/- towards full and final settlement and accordingly on 18.05.2023, I received the said sum by cash in the presence of two witnesses. As such, I agreed to compound the case pending as against the petitioner.

5. I submit that the compounding petition filed under section 147 of the Negotiable Instruments Act may be treated part and parcel of my affidavit. As stated in the above paragraph since a compromise was arrived between me and the petitioner this Honorable Court may be pleased to record the same or otherwise we will be put to irreparable loss and hardship.

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[Signature]

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I therefore pray that this Honorable Court may be pleased to record the Settlement arrived between the parties, permit us to compound the offence and acquit the petitioner under section 320(3) of the CR.P.C. and thus render justice.

Solemnly affirmed on this the 9th day of
Sep/2023, signed his name in my
presence after the contents of this affidavit
has been read over and explained to him in
Tamil and he understood the same.

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BEFORE ME
[Signature]
ADVOCATE | PALANI
7/24 Thiru. Velmurugan
Shanmugaswamy
Palani
041561850328

7. In view of the compromise reached between the parties, the offence under Sections 138 r/w. 142 of Negotiable Instruments Act stands compounded under Section 147 of the Negotiable Instruments Act.

8. Accordingly, the conviction and sentence imposed by the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Palani, in C.C.No.72 of 2015, dated 12.01.2017 and confirmed by Additional District and Sessions Court, Palani, in Criminal Appeal No.34 of 2017, dated 03.08.2018, is hereby set aside and the Criminal Revision Case is allowed. The accused is acquitted from



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the charges levelled against him. Bail bond if any, executed by the accused shall stand discharged. Consequently, connected Miscellaneous Petition is closed.

26.04.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No

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To

- 1.The Additional District and Sessions Court,
Palani.
- 2.The learned Judicial Magistrate,
Fast Track Court (Magisterial Level),
Palani.
- 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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