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CRL.A.(MD).Nos.113 and 114 of



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 31.10.2025

PRONOUNCED ON : 07.11.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRL.A(MD).Nos.113 and 114 of 2025

Crl.A.(MD)No.113 of 2025:

M/s Madhangi Agencies,
represented by its Managing Partner,
Vinayagam.

.. Appellant/Complainant

Vs.

1.M.Duraivelrajan
2.D.Bharath Rohini

... Respondents/Accused

PRAYER: Criminal Appeal filed under Section 419(4) of BNSS against the judgment of acquittal passed in Crl.M.P.No.21749 of 2023 in S.T.C.No.4359 of 2019, on the file of the learned Judicial Magistrate No.IV, Tiruchirappalli, dated 19.07.2023, for the offence under Sections 138 r/w 142 of the Negotiable Instruments Act.

Crl.A.(MD)No.114 of 2025:

M/s Madhangi Agencies,
represented by its Managing Partner,
Vinayagam.

.. Appellant/Complainant



Vs.

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1.M.Duraivelrajan
2.D.Bharath Rohini

... Respondents/Accused

PRAYER: Criminal Appeal filed under Section 419(4) of BNSS against the judgment of acquittal passed in CrI.M.P.No.21748 of 2023 in S.T.C.No.4364 of 2019, on the file of the learned Judicial Magistrate No.IV, Tiruchirappalli, dated 19.07.2023, for the offence under Sections 138 r/w 142 of the Negotiable Instruments Act.

For Appellant
in both cases : Mr.S.Deenadhayalan

For Respondents
in both cases : Mr.D.S.Haroon Rasheed

COMMON JUDGMENT

These Criminal Appeals are directed against the orders passed in CrI.M.P.No.21749 of 2023 in S.T.C.No.4359 of 2019 and CrI.M.P.No.21748 of 2023 in S.T.C.No.4364 of 2019, dated 19.07.2023, on the file of the Court of the Judicial Magistrate No.IV, Tiruchirappalli.



2. The appellant in both appeals, as a complainant, filed private complaints under Section 200 Cr.P.C., against the respondents for the alleged offence under Section 138 r/w 142 of the Negotiable Instruments Act.

3. For the sake of convenience and brevity, the parties will hereinafter be referred as per their status/ranking in the trial Court.

4. Admittedly, the first respondent is the husband of the second respondent. The complainant in his both complaints filed under Section 200 Cr.P.C., has stated that the second accused, wife of the first accused, has issued cheques towards discharge of their liability and that though the cheques were issued by the second accused, both the accused were liable to pay the cheque amount. According to the complainant, though the second accused has issued the cheque by subscribing her signature therein, considering the joint liability, her husband – first accused has also been added as an accused.

5. The learned Counsel for the appellant/complainant would submit that during the pendency of the above complaint before the trial Court, the complainant filed memos in both the cases seeking exoneration of the first accused namely Duraivelrajan, as he has not signed in the cheque and permitting to proceed against the second accused and the said memos came to be recorded



and that subsequently, in order to avoid any technical objections to be raised, the complainant filed the applications under Section 257 Cr.P.C., seeking withdrawal of the complaint as against the first accused Duraivelrajan and in those applications, the prayer portion has been mistakenly typed as if the complainant seeks withdrawal of the complaint as against the second accused – Bharath Rohini and that the learned Magistrate, without considering the contents of the petitions filed under Section 257 Cr.P.C., and by wrongly relying on the prayer paragraph, allowed the petitions and ordered for withdrawal of the complaints as against the second accused, vide orders dated 19.07.2023 and that therefore, the complainant was constrained to file the present appeals challenging the impugned orders.

6. The learned Counsel for the respondents would submit that the complainant filed an application seeking transfer of the above two cases from the file of the Court of the Judicial Magistrate No.V, Trichirappalli to any other Court, before the Chief Judicial Magistrate, Trichirappalli and in that petition, the complainant raised an allegation that the petitions filed under Section 257 Cr.P.C., came to be filed without the signature of the complainant and that the learned Chief Judicial Magistrate, after enquiry, dismissed the transfer application and that the complainant by filing three similar cases including the present two cases, has been dragging on the matter.



7. Admitting the dismissal of the transfer application, the learned Counsel for the complainant would submit that the complainant has not challenged the filing of the applications filed under Section 257 Cr.P.C., before the trial Court, that the complainant has nowhere whispered that the proceedings against the respondents were taken without his knowledge or consent and that the dismissal of the transfer application will in no way affect the right of the complainant to prefer the present appeals, challenging the impugned orders and rectify the mistakes committed. The learned Counsel would further submit that considering the pendency of the above cases from 2019, the trial Court may be directed to expedite the trial and dispose of the same within the time to be stipulated by this Court.

8. It is not in dispute that the complainant has earlier filed memos before the concerned Court seeking exoneration of the first accused Duraivelrajan on the ground that he was not the signatory to the disputed cheque and the said memos came to be recorded. It is also not in dispute that the complainant has then filed applications under Section 257 Cr.P.C., before the trial Court. In the said applications filed under Section 257 Cr.p.C., the complainant has stated in paragraphs 2 to 4:



“2. It is submitted that the cheque with which the above case is concerned has not been signed by Durai Velrajan who has been arrayed as the first accused.

3. In view of the same, a memo has already been filed on behalf of the complainant to exonerate the first accused Durai Velrajan and he has been exonerated.

4. In view of the technical point raised, the petitioner is submitting this application u/s 257 Cr.P.C., to withdraw the complaint as against the accused Durai Velrajan”.

But in prayer portion, it has been shown

“ It is therefore, prayed that this Hon'ble Court may be pleased to permit the complainant to withdraw the complaint as against the second accused Bharath Rohini and render justice”.

9. As rightly contended by the learned Counsel for the complainant, in the entire body of the petitions filed under Section 257 Cr.P.C., the complainant has referred about the first accused, but only in prayer portion, the name of the second accused was referred. As rightly contended by the learned Counsel for the complainant, the learned Magistrate without considering the filing of the memos and recording of the same earlier and without considering the entire contents of the petition filed under Section 257 Cr.P.C., by taking into account only the prayer portion, has passed the impugned orders dismissing the complaints as withdrawn as against the second accused / Bharath Rohini.



10. A cursory perusal of the records would clearly reveal that it is only a typographical mistake in drafting the petition filed under Section 257 Cr.P.C., and the learned Magistrate without considering the same, has proceeded to pass orders in a mechanical fashion. Considering the above, this Court has no hesitation in holding that the impugned orders are not sustainable and the same are liable to be set aside. Since the complainant has sought for withdrawal of the complaint as against the first accused and taking note of the fact that the memos were already filed and recorded, this Court is inclined to allow the petitions filed under Section 257 Cr.P.C., and the complaints in S.T.C.Nos.4359 and 4364 of 2019, on the file of the Judicial Magistrate No.IV, Trichirappalli are liable to be dismissed as withdrawn as against the first accused Duraivelrajan and the first accused – Duraivelrajan is to be acquitted under Section 255(1) Cr.P.C. Since both the cases are pending from 2019 for the past 6 years, the learned Judicial Magistrate is to be directed to proceed with the complaints as against the second accused – Bharath Rohini, complete the trial and dispose of the cases within a period of two months from the date of receipt of a copy of this order.

11. In the result, both the Criminal Appeals are allowed and the impugned orders passed in Crl.M.P.No.21749 of 2023 in S.T.C.No.4359 of 2019 and Crl.M.P.No.21748 of 2023 in S.T.C.No.4364 of 2019, dated 19.07.2023, on the



file of the Court of the Judicial Magistrate No.IV, Tiruchirappalli are set aside.

The petitions filed under Section 257 Cr.P.C., are allowed and the complaints in S.T.C.Nos.4359 and 4364 of 2019 are dismissed as withdrawn as against the first accused Duraivelrajan and the first accused is acquitted under Section 255(1) Cr.P.C. Since both the cases are pending from 2019 for the past 6 years, the learned Judicial Magistrate is directed to proceed with the complaints as against the second accused – Bharath Rohini, complete the trial and dispose of the cases within a period of two months from the date of receipt of a copy of this order.

07.11.2025

Index : Yes/No

Internet : Yes/No

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To

1. The Judicial Magistrate Court No.IV, Tiruchirappalli.

2.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

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PRE-DELIVERY JUDGMENT MADE IN
CRL.A(MD).Nos.113 and 114 of 2025

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