

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20-04-2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 323 of 2015
and
M.P. Nos. 1 and 2 of 2015

S.Sushil Kumar Kanodia

...Petitioner/Accused

Versus

N.Rangan

....Respondent/Complainant

Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. against the Judgment dated 25.02.2015 made in C.A. No.82 of 2013 on the file of the learned IV Additional District and Sessions Judge, Coimbatore, confirming the order dated 31.05.2013 made in C.C. No. 14 of 2011 on the file of the learned Judicial Magistrate, Fast Track Court No.1, Coimbatore.

For Petitioner : Mr. K.V.Sridharan

For Respondent : Mr. T.R.Sivaram

ORDER

In the Criminal Complaint filed by the respondent/complainant under Section 138 r/w. 142 of the Negotiable Instruments Act, by order dated 31.05.2013 made in C.C. No. 14 of 2011 on the file of the learned Judicial Magistrate, Fast Track Court No.1, Coimbatore, the petitioner/accused was convicted under Section 138 r/w. 142 of the Negotiable Instruments. The petitioner was sentenced to undergo one year rigorous imprisonment and to pay a compensation of Rs.26,00,000/- to the respondent, in default, to undergo simple imprisonment for a period of six months. As against this conviction and sentence imposed on the petitioner, he has filed a Crl.A. No. 82 of 2013 on the file of the learned IV Additional District and Sessions Judge, Coimbatore, which was dismissed on 25.02.2015, thereby, confirming the judgment of the Trial Court. As against the same, the present Criminal Revision Case is filed.

2. Pending Criminal Revision Case, the petitioner has filed M.P. No.2 of 2015 seeking permission to compound the offence under Section 138 r/w. 142 of the Negotiable Instruments Act by setting aside the conviction and sentence imposed on the petitioner by the Courts below. As per the petition for compounding the offence under Section

138 r/w.142 of the Negotiable Instruments Act, the respondent/complainant has agreed to receive an amount of Rs.12,00,000/- (Rupees Twelve Lakhs only) for which the petitioner had already purchased a Demand Draft/Pay Order No.865656, dated 02.03.2015, for Rs.12,00,000/- drawn on the Federal Bank Limited, Coimbatore Papanaiken (1982), in favour of the respondent viz., N.Rangan, at the time of hearing of Criminal Revision Petition before this Court either in person or through his counsel.

3. The learned counsel appearing for the respondent has no objection for allowing M.P. No. 2 of 2015 and also for compounding the offence imposed on the petitioner by the Courts below.

4. Today, when the matter is called, both parties have filed individual compromise affidavit and the learned counsel appearing for the petitioner has handed over a Demand Draft bearing No. 865656, dated 02.03.2015, for Rs.12,00,000/- drawn on the Federal Bank Limited, Coimbatore Papanaiken (1982), in favour of the respondent viz., N.Rangan, to the learned counsel appearing for the respondent/complainant. The respondent's counsel has received the Demand Draft and the respondent/complainant is present in Court in person.

5. Considering the fact that the dispute has been compromised between the parties and the petitioner's counsel has handed over the Demand Draft for Rs.12,00,000/- as stated supra to the respondent's counsel and the petitioner has also filed M.P. No. 2 of 2015 and prayed this Court to compound the offence, M.P. No. 2 of 2015 is allowed and the respondent/complainant is permitted to compound the offence under Section 138 r/w. 142 of the Negotiable Instruments Act against the petitioner as per the decision of the Honourable Supreme Court in (i) B.M. Joshi vs. State of Haryana (2003) 4 SCC 675 (ii) Nikhil Merchant vs. C.B.I. 2008 (3) SCC CrI 858 (iii) Jagdish Chanana and others vs. State of Haryana 2009 (3) SCC CrI. 1157. Accordingly, following the decisions of the Honourable Supreme Court referred to above, this Court is of the view that the proceedings against the petitioner could be set aside. Consequently, the Judgment dated 25.02.2015 made in CrI.A. No.82 of 2013 on the file of the learned IV Additional District and Sessions Judge, Coimbatore, confirming the order dated 31.05.2013 made in C.C. No. 14 of 2011 on the file of the learned Judicial Magistrate, Fast Track Court No.1, Coimbatore, are set aside. The Criminal Revision Case is allowed. Consequently, M.P.No. 1 of 2015 is closed.

Sd/-
Assistant Registrar (R)

//True Copy//

Sub Assistant Registrar

paa

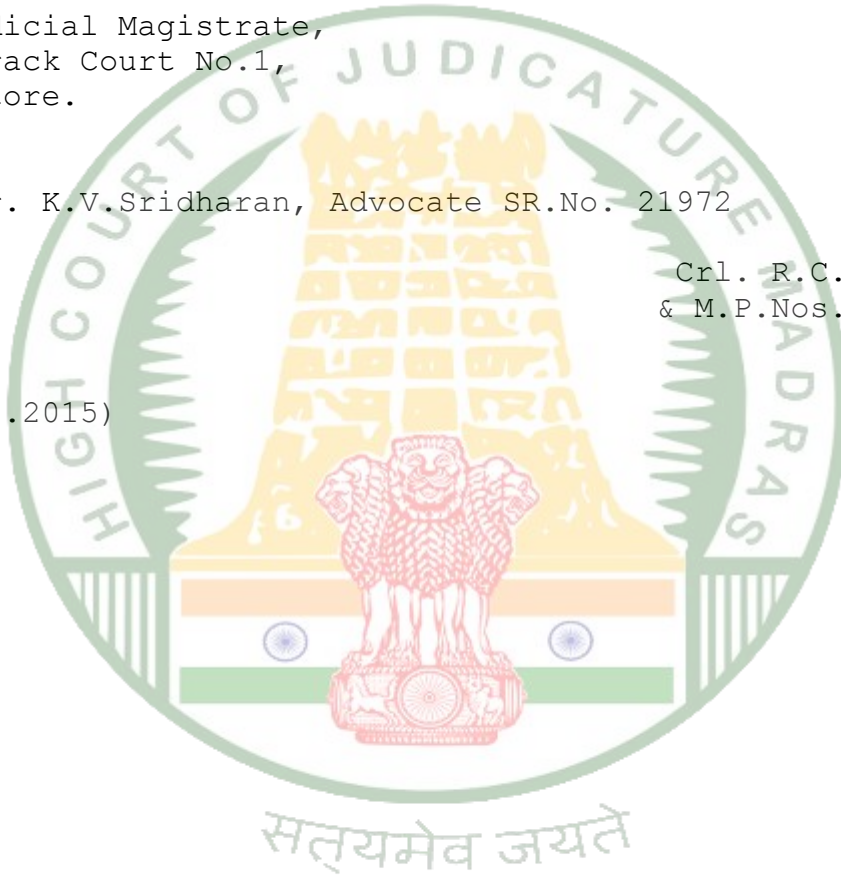
To

1. The IV Additional District and Sessions Judge,
Coimbatore.
2. -Do- Through The Principle District &
Sessions Judge,
Coimbatore.
3. The Judicial Magistrate,
Fast Track Court No.1,
Coimbatore.

1 CC to Mr. K.V.Sridharan, Advocate SR.No. 21972

Cr1. R.C. No. 323 of 2015
& M.P.Nos. 1 and 2 of 2015

RJ (CO)
PSI (14.05.2015)



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