

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2015

CORAM:

THE HONOURABLE MRS.JUSTICE ARUNA JAGADEESAN

CRL.A.No.472 of 2006

P.Parameswaran

..Appellant

Vs

M.G.C.Leelavathi

..Respondent

Prayer:- This Criminal Appeal is filed under section 378 of Cr.P.C. against the order of acquittal passed by the Judicial Magistrate No.7, Coimbatore in S.T.C.No.3191 of 2004, dated 17.04.2006.

For Appellant : M/s.Sai Bharath & Ilan
For Respondent : Mr.T.Jayaraman

J U D G M E N T

This Criminal Appeal is filed against the order of acquittal passed by the Judicial Magistrate No.7, Coimbatore, in S.TC.No.3191 of 2004 dated 17.04.2006, acquitting the accused from the offence under Section 138 of Negotiable Instruments Act.

2. When the matter came up for hearing, a Memo of Compromise dated 30.06.2014, signed by both, the Appellant and the Respondent and their respective counsel, has been filed, which reads as under:-

"i) In view of the compromise, the Respondent hereby agrees to pay a total sum of Rs.10,00,000/- (Rupees Ten Lakhs only) in full and final settlement of the claims made by the Appellant, in 3 months as detailed below.

ii) A sum of Rs.2,00,000/- (Rupees Two Lakhs only) will be paid on or before 22.08.2014 constituting the first instalment.

iii) A sum of Rs.3,00,000/- (Rupees Three Lakhs only) will be paid on or before 25.09.2014 towards the second instalment.

iv) The balance amount of Rs.5,00,000/-

(Rupees Five Lakhs only) will be paid on or before 24.12.2014 as the final instalment.

b) The Appellant hereby accepts the same in full and final settlement of his claim against the respondent and hereby declares that the said amount is being received in full satisfaction and final settlement of all his claims against the Respondent and the Respondent is not liable for any further payment and on payment of the above said amount by the Respondent, appropriate orders may be passed by the Hon'ble Court for dismissing the appeal.

c) Neither the Appellant nor the Respondent have any further claim or liability against the other.

d) The Respondent and the Appellant hereby agree to abide by the above said terms and conditions and not to do any act or deed in derogation of the same. "

In view of the said Memo of Compromise, a prayer is made, in the interest of justice that the parties should be permitted to compound the offence.

3. The respondent had paid a sum of Rs.5,00,000/- to the appellant by way of two demand drafts, viz., Rs.2,00,000/- dated 20.08.2014 and Rs.3,00,000/- dated 21.08.2014, drawn in Corporation Bank, Chennai and Axis Bank, Annanagar, Chennai, respectively. Thereafter, on 28.01.2015, the respondent paid a sum of Rs.2,50,000/- to the appellant and today, i.e., 12.02.2015, the respondent paid a sum of Rs.2,50,000/- to the respondent. Therefore, the appellant had received a total sum of Rs.10,00,000/- from the respondent as per the memo of compromise entered into between the parties.

4. The Honourable Supreme Court in similar circumstances allowed the parties to compound the offence under Section 147 of the Negotiable Instruments Act in the decision reported in 2006-Crl.LJ-948 (K.Gyansagar Vs. Ganesh Gupta and another). In yet another decision of the Honourable Supreme Court reported in 2000-1-SCC-762 (Texmaw Vs. State of AP), in similar circumstances, the Honourable Supreme Court had allowed such prayer.

4. Having regard to the facts and circumstances of the case, in the light of the decisions of the Honourable Supreme Court cited supra, also in view of the fact that Section 147 of the Negotiable Instruments Act permits compounding of the offence and since the parties state that dispute between them has been settled amicably, the amount due has been paid to the Appellant by the Respondent and nothing is outstanding from the Respondent, by filing the above said Memo of Compromise to that effect, the prayer of the parties, seeking to settle the dispute and to permit them to

compound the offence Section 147 of the Negotiable Instruments Act, should be allowed. Therefore, the parties are hereby permitted to compound the offence. Accordingly, this Criminal Appeal is disposed of.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi

To:

- 1.The Judicial Magistrate No.VII, Coimbatore.
- 2.-do- Thro The Chief Judicial Magistrate, Coimbatore.

1 cc to M/s.Sai Bharath & Ilan ,Advocate, SR.No.7778

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