

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26-06-2015

Coram :

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 1295 of 2013

V. Senthilkumar

.. Petitioner (Accused)

Versus

B.S. Ramakrishnan

.. Respondent

Criminal Revision Case filed under Section 397 and 401 of Criminal Procedure Code to set aside the judgment dated 25.07.2013 made in Criminal Appeal No.14 of 2013 on the file of V Additional District and Sessions Judge, Coimbatore confirming the judgment dated 21.12.2012 passed in S.T.C. No. 319 of 2012 on the file of Judicial Magistrate (Fast Track Court Magistrate Level-II), Coimbatore.

For Petitioner : Mr. R. Aranganathan

For Respondent : Mr. P.V. Selvarajan

ORDER

The respondent has filed a complaint under Section 138 of The Negotiable Instruments Act contending that the revision petitioner borrowed a sum of Rs.40,000/- from him on 28.02.2010 and on demand, he issued a cheque dated 31.05.2010 for Rs.40,000/- drawn on HDFC Bank. When the cheque was presented for payment, it was dishonoured on 02.06.2010 for want of funds. The respondent therefore issued a legal notice on 07.06.2010 but it was not responded to by the revision petitioner. The said complaint was taken on file in S.T.C. No. 319 of 2012. The trial Court, after due trial and on appreciation of the oral and documentary evidence, passed a judgment of conviction convicting the revision petitioner under Section 138 of Negotiable Instruments Act and sentenced him to undergo simple imprisonment for a period of one month with fine of Rs.2,000/-, in default to undergo one month simple imprisonment. Such judgment of conviction passed by the trial Court was also confirmed by the Appellate Court by a judgment dated 25.07.2013 in Criminal Appeal No.14 of 2013, hence, this Criminal Revision Petition.

2. Today, when the Criminal Revision Case is taken up for hearing, both the revision petitioner and the defacto complainant/respondent are present along with their respective counsel. The defacto complainant/respondent agreed to compound the sentence imposed against the revision petitioner by stating that even when the Criminal Appeal was pending before the Appellate Court, the revision petitioner had paid the cheque amount. However, even before it could be brought to the notice of the Appellate

Court, the judgment dated 25.07.2013 in Criminal Appeal No.14 of 2013 came to be passed. To this effect, the revision petitioner as well as the respondent have filed a Joint Memo of Compromise duly signed. The revision petitioner has also filed MP No. 1 of 2015 in Crl.R.C. No. 1295 of 2013 praying to record the joint compromise memo and thereby to set aside the judgment of conviction and sentence imposed on him by both the Courts below.

3. Considering the fact that the dispute has been compromised between the parties and MP No. 1 of 2015 has been filed to record the compromise entered into between them, this Court is of the view that the conviction and sentence imposed on the petitioner can be permitted to be compounded 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 Crl 858 (iii) Jagdish Chanana and others vs. State of Haryana 2009 (3) SCC Crl. 1157. Accordingly, following the decision of the Honourable Supreme Court referred to above, this Court is of the view that the judgment of conviction passed against the petitioner could be set aside. Accordingly, the judgment dated 25.07.2013 made in Criminal Appeal No.14 of 2013 on the file of V Additional District and Sessions Judge, Coimbatore confirming the judgment dated 21.12.2012 passed in S.T.C. No. 319 of 2012 on the file of Judicial Magistrate (Fast Track Court Magistrate Level-II), Coimbatore are set aside. The Criminal Revision Case is allowed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

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To

1. The V Additional District and Sessions Judge
Coimbatore
2. do thro the Principal Sessions Judge, Coimbatore
- 3.The Judicial Magistrate
(Fast Track Court Magistrate Level-III)
Coimbatore
4. do thro the Chief Judicial Magistrate
Coimbatore

1 cc to M/s.R. Aranganathan, Advocate, Sr. 31675

Crl.R.C No. 1295 of 2013