

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Crl.O.P.No.30039 of 2015

Martin Felix Celvia

... Petitioner

Vs

M.M.Nagarajan

... Respondent

Criminal Original Petition filed under Section 482 Cr.P.C. to permit the petitioner to compound the offence which is the subject matter of STC No.1297 of 2008 on the file of the learned District Munsif-cum-Judicial Magistrate, Neyveli and C.A.No.141/2010 on the file of the learned Additional District and Sessions Judge, Fast Track Court No.III, Virudhachalam and Criminal R.C.No.1208 of 2011 under section 147 of the Negotiable Instruments Act, in terms of and based upon the Joint Compromise Deed dated 13.11.2015 which has been entered into between the petitioner and the respondent/complainant after the disposal of the Crl.R.C.No.1208 of 2011 by an order dated 20.07.2015 and acquit her from the offence.

For Petitioner : Mr.V.Ajoy Khose

For respondent : Mr.G.Muthurasu

ORDER

The present criminal original petition has been filed to permit the petitioner to compound the offence which is the subject matter of STC No.1297 of 2008 on the file of the learned District Munsif-cum-Judicial Magistrate, Neyveli and C.A.No.141 of 2010 on the file of the learned Additional District and Sessions Judge, Fast Track Court No.III, Virudhachalam and Criminal R.C.No.1208 of 2011 filed under section 147 of the Negotiable Instruments Act, in terms of and based upon the Joint Compromise Deed dated 13.11.2015 which has been entered into between the petitioner and the respondent/ complainant after the disposal of Crl.R.C.No.1208 of 2011 by an order dated 20.07.2015 and acquit her from the offence.

2. In the petition, it is stated that the respondent/complainant filed STC.No.1297 of 2008 as against the petitioner before the learned District Munsif cum Judicial Magistrate, Neyveli. The Trial Court based on the evidence given by the complainant and written arguments filed by the complainant has passed the Judgement dated 3.11.2012 holding the petitioner guilty of the offence and imposed a sentence of simple imprisonment for one year and also directed the petitioner to pay a fine of Rs.5,000/- and in case of default to undergo simple imprisonment for six months under section 138 read with Section 142 of Negotiable Instruments Act and to pay a sum of Rs.2,500/- out of the fine amount to the complainant, the respondent herein. As against the said conviction, the petitioner filed Criminal Appeal No.141 of 2010 before the learned Additional District and Sessions Judge, Fast Track Court No.III, Virudachalam. The Appellate Court by an order dated 9.8.2011, confirmed the Judgement of conviction and sentence of the trial Court. Hence, the petitioner filed a revision before this Court in CrI.R.C.No.1208 of 2011 under section 397 read with Section 401 Cr.P.C. against the order of the learned Additional District and Sessions Judge, Fast Track Court No.III, Virudhachalam. But the said criminal revision petition was dismissed for default by this Court on 12.6.2014.

3. After the dismissal of the said revision in CrI.R.C. No.1208 of 2011, the employer of the petitioner namely the Neyveli Lignite Corporation Ltd., placed the petitioner under suspension on 02.08.2014 and later issued a charge memo dated 11.12.2014, on the ground that she failed to inform about her involvement in the above criminal case under section 138 of the Negotiable Instruments Act and also about her conviction. The management also ordered for an enquiry into the charges. In the meantime, the petitioner discharged the loan amount to the respondent/complainant and got a receipt in proof of discharge of the loan amount. In the said receipt, the respondent has agreed that he will not pursue any criminal action against the petitioner. Though the petitioner produced the said receipt and informed the management about the compromise reached between the petitioner and the respondent, the management did not agree for the same and also issued a notice of termination on 8.10.2015. Therefore, the petitioner filed a Writ Petition before this Court in W.P.No.34119 of 2015 for quashing the said order of termination and obtained an interim order on 26.10.2015 directing the management to defer the decision of termination till 19.11.2015 and the petitioner was given time to get the matter compounded in the manner known to law on or before 18.11.2015. Hence, the petitioner has come forward with this petition to compound the offence based on the Joint Compromise Deed dated 13.11.2015, which has been entered into between the petitioner and the respondent.

4. Today, when the matter was taken up for consideration, learned counsel appearing for the petitioner and the learned counsel appearing for the respondent / de facto complainant represented that the dispute between the parties was amicably settled. The parties were also present before this Court. The petitioner has also filed a copy of Joint Compromise Deed dated 13.11.2015 which has been entered into between the petitioner and the respondent along with the typed set of papers. The respondent has also stated in the Joint Compromise Deed that he gives consent for compounding the offence before this Court. Learned counsel appearing for the petitioner has also relied upon the decision of this Court reported in (2014) 2 MLJ (Cr1) 654 - D.Simpson v. S.T.Perumal, in support of his contention that though the conviction was confirmed in appeal by the Sessions Court as well as in the revision by this Court, if there is any subsequent change in circumstances, the extraordinary inherent jurisdiction under Section 482 Cr.P.C. can be invoked to accept the compromise entered into between the parties.

5. I have heard the learned Additional Public Prosecutor.

6. Considering the facts and circumstances of the case and considering the Joint Compromise Deed filed by the petitioner and also taking note of the dictum laid down in the above referred decision, I am of the opinion that the offence in criminal proceedings in S.T.C.No.1297 of 2008 on the file of the learned District Munsif cum Judicial Magistrate, Neyveli and C.A.No.141 of 2010 on the file of the learned Additional District and Sessions Judge, Fast Track Court No.III, Virudhachalam and Criminal R.C.No.1208 of 2011 under Section 147 of the Negotiable Instruments Act, could be compounded in terms of and based on the Joint Compromise Deed dated 13.11.2015 which has been entered into between the petitioner and the respondent and acquit the petitioner from the offence.

In fine, the criminal original petition is allowed.

vrc/sbi

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

1. The District Munsif cum Judicial Magistrate,
Neyveli.

2. The Additional District and Sessions Judge,
Fast Tract Court No.III,
Virudachalam.

3. The Public Prosecutor, High Court, Madras.

+ 1 cc to Mr.V.Ajay Khose, Advocate SR 68322

ad(co)
prk21/1

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