

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 26.03.2015

CORAM

THE HONOURABLE MR.JUSTICE R.S.RAMANATHAN

Crl.O.P.No.4871 of 2015

R.Subramanian
S/o. Rengasamy

.. Petitioner

vs.

K.P.Sridhar
S/o. Periyasamy

.. Respondent

Criminal Original Petition filed under section 482 of Criminal Procedure Code praying to compound the offence u/s.147 of the Negotiable Instruments Act between the petitioner and the respondent based on the joint memo of compromise dated 28.11.2012 entered into between the petitioner and respondent.

For Petitioner : Mr.G.Mohan

For Respondent : Mr.N.Manoharan

ORDER

The respondent herein filed C.C.No.287 of 2008 against the petitioner on the file of the learned Judicial Magistrate, Kangayam under Section 138 of the Negotiable Instruments Act and the learned Judicial Magistrate convicted the petitioner for offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for one year and to pay a fine of Rs.5,000/-, in default, to undergo further period of simple imprisonment of three months. The petitioner filed an appeal in C.A.No.67 of 2011 on the file of the Additional Sessions Judge, Fast Track Court No.1, Erode and the Appellate Court also confirmed the conviction and modified the sentence to six months SI instead of 1 year SI as ordered by the learned trial Judge. Thereafter, the petitioner filed Crl.R.C.No.27 of 2012 on the file of this court and this court by order dated 18.07.2012, partly allowed the revision by modifying the sentence of imprisonment from six months to two months and directed the petitioner to pay a sum of Rs.1 lakh as compensation to the complainant.

2. Now the petition is filed to record the joint memo of compromise entered into between the parties to the effect that the petitioner paid the cheque amount to the respondent and the respondent has also agreed to receive the same in full quit and by

recording the same, the conviction and sentence passed against the petitioner may be set aside. The learned counsel also relied upon the judgment reported in 2014-2-LW(Crl)239 equivalent to 2014(2) MLJ(Crl) 654. The learned counsel for the petitioner also submitted that under Section 147 of the Negotiable Instruments Act, the offence are compoundable and even though the conviction was confirmed by this Court having regard to the settlement arrived at between the parties, this petition may be allowed.

3. The respondent/complainant is present in Court and he is also identified by the learned counsel Mr.N.Manoharan, who appeared for the respondent before this Court in Crl.R.C.No.27 of 2012. The respondent admitted that he received a sum of Rs.3 lakhs and he does not want the compensation awarded by this Court in the revision and he has no objection for setting aside the conviction.

4. Being a private complaint filed under Section 138 of the Negotiable Instruments Act and the respondent/complainant has received the amount and also filed a memo of compromise stating that he has no objection for setting aside the conviction, this petition is allowed and the conviction and sentence imposed on the petitioner in C.C.No.287 of 2008 and modified in Crl.R.C.No.27 of 2012 is set aside. It is submitted by the learned counsel for the petitioner that as per the direction of this Court, a sum of Rs.1 lakh was deposited by the petitioner before the trial Court and he may be permitted to withdraw the same. The respondent has no objection for the petitioner to withdraw the amount deposited by the him. Hence, the petitioner is permitted to withdraw a sum of Rs.1 lakh, which was deposited before the learned judicial Magistrate, Kangayam.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate, Kangayam.

+ 1 cc to Mr.N. Manokaran, Advocate SR.17234

SK(CO)

EU 20.04.2015

Crl.O.P.No.4871 of 2015