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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31-07-2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No. 96 of 2013

D.Gajendran

...Petitioner/Petitioner/Accused

Versus

K.Gopinath

...Respondent/Respondent

(Cause Title amended
as per the order of this
Court in M.P.No.1/2015
dated 31.07.2015)

Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C., against the judgment dated 10.10.2012 made in Criminal Appeal No. 39 of 2012 on the file of the Principal District Sessions Judge, Krishnagiri, modifying the conviction and sentence imposed in the judgment dated 08.06.2012 in C.C.No.63 of 2010 on the file of the Judicial Magistrate No.II, Krishnagiri District.

For Petitioner : Mr. Mukund R.Pandiyan

For Respondent : Mr. A.Gokulakrishnan

ORDER

The petitioner/accused was convicted by the learned Judicial Magistrate No.II, Krishnagiri District, in C.C. No. 63 of 2010, dated 08.06.2012, for an 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.2,000/-, in default to undergo simple imprisonment for thirty days. Challenging the same, the accused filed Criminal Appeal No. 39 of 2012 before the learned Principal District Sessions Judge, Krishnagiri. The Appellate Court while confirming the conviction has modified the sentence to that of one month simple imprisonment. Aggrieved against the same, the accused has filed the present Criminal Revision Case.

2. Mr.Mukund R.Pandiyan, learned counsel appearing for the petitioner submitted that pending this Criminal Revision Case, both



the petitioner and the respondent have arrived at a compromise. The learned counsel appearing for the petitioner also filed before this Court the Compromise Memo entered into between the petitioner and the respondent on 31.07.2015. The learned counsel would pray this Court to record the compromise entered into between the petitioner and the respondent. The learned counsel for the petitioner therefore pray this Court to permit the petitioner to compound the offence on the basis of the Memorandum of Compromise entered into between the petitioner and the respondent.

3. Mr.A.Gokulakrishnan, learned counsel appearing for the respondent admits that the matter has been compromised between the parties.

4. The compromise entered into between the petitioner and respondent on 31.07.2015 reads as follows:-

"1. I submit that the petitioner filed the above Criminal revision as against the order and Judgment Dt. 10.10.2012 made in Criminal Appeal No.39/2012 on the file of Principal District Sessions Judge, Krishnagiri modifying the conviction and sentence imposed in the Judgment Dt. 08.06.2012 made in C.C.No.63/2010 on the file of Chief Judicial Magistrate II, Krishnagiri District.

2. I submit that the above Criminal revision is preferred before this Hon'ble Court and now the petitioner had paid (Rs.1,80,000/-) ie., the entire Cheque amount with other charges and the same is also accepted by the respondent herein. Hence it is prayed that this Hon'ble Court may be pleased to record the compromise memo and compound the offence by allowing the revision petition.

In the above circumstances, it is prayed that this Hon'ble Court may be pleased to permit the petitioner to compound the offence under section 138 and 142 of Negotiable Instrument Act and thus render justice."

5. Considering the fact that the matter has been compromised between the parties and the memo of compromise has been filed to that effect, the same is recorded. Further, this Court is inclined to permit the petitioner to compound the offence under Sections 138 and 142 of Negotiable Instrument Act by following the ratio laid down by 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 and (iii) Jagdish Chanana and others vs. State of Hariyana 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 quashed. Accordingly, the proceedings against the petitioner are quashed. This Criminal Revision Petition is allowed.

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Sd/-
Deputy Registrar (J)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal District Sessions Judge,
Krishnagiri.
2. The Judicial Magistrate No.II,
Krishnagiri District.
3. -Do- Through The Chief Judicial Magistrate,
Krishnagiri District.

1 CC to Mr. Mukund R.Pandiyan, Advocate SR.No. 39285

Crl. R.C. No. 96 of 2013

CTK (CO)
PSI (18.08.2015)