

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.04.2016

Coram:

THE HON'BLE Mr.JUSTICE M.VENUGOPAL

Crl.R.C.No.59 of 2016 and
Crl.M.P.Nos.4803 of 2016; 393 of 2016 and 442 of 2016

Saravanan

..Petitioner/Accused

Vs.

Venkatesh

...Respondent/Complainant

Prayer: Petition filed under Sections 397 and 401 of Cr.P.C., to set aside the Judgment made in Crl.A.No.66 of 2013 on the file of the Learned Principal Sessions Judge, Salem dated 09.12.2015 confirming the Judgment made in C.C.No.23 of 2013 on the file of Learned Judicial Magistrate Court (Fast Track Court), Omalur dated 09.07.2013.

For Petitioner : Mr.S.Doraisamy

For Respondent : Mr.R.Murugabharathi

O R D E R

Heard both sides.

2. It is represented on behalf of the Petitioner / Appellant / Accused that both the Revision Petitioner / Appellant / Accused and the Respondent / Complainant have filed a Crl. M.P.No.4803 of 2016 before this Court under Section 147 of the Negotiable Instruments Act, 1881 for compounding of an offence in the subject matter in issue. In the affidavit in Crl.M.P.No.4803 of 2016 filed by the Petitioner / Appellant / Accused and signed by Learned Counsel appearing for the parties and also signed by the Respondent / Complainant at Paragraph Nos.2 and 3, it is averred as under:-

"2. The petitioner and the respondent submit that the petitioner filed the Criminal Revision Petition in Crl.R.C.No.59 of 2016 before this Hon'ble High Court and the same is still pending. The petitioner and the respondent further submits that the pendency of the above said Crl.R.C.No.59 of 2016, the petitioner is willing to settle and repay the

entire cheques amount of Rs.4,38,200/- by way of Banker's Cheque No.599244 dated 04.04.2016 in the State Bank of India, Tharamagalam Branch, Salem District in favour of the respondent and as such the respondent also have accepted the above same.

3. Hence the petitioner and the respondent jointly filing this compound petition before this Hon'ble High Court."

3. Today, the Petitioner / Appellant / Accused and the Respondent / Complainant are very much present before this Court and they inform this Court that they have jointly filed the present Crl.M.P.No.4803 of 2016 under section 147 of Negotiable Instruments Act.

4. On behalf of the Petitioner / Accused, the Learned Counsel produces a Banker's Cheque dated 04.04.2016 bearing No.599244 for Rs.4,38,200/- (Rupees Four Lakhs Thirty Eight Thousand and Two Hundred only) and to this amount both the parties agree. In fact, the Cheque dated 04.04.2016 for the subject matter in issue is in favour of the Respondent / Complainant. Moreover, before this Court, the Respondent / Complainant has received the aforesaid Cheque dated 04.04.2016 for a sum of Rs.4,38,200/- (Rupees Four Lakhs Thirty Eight Thousand and Two Hundred only)

5. The Petitioner / Appellant / Accused and the Respondent / Complainant have understood the spirit and tenor and also contents of Crl.M.P.No.4803 of 2016 filed before this Court under Section 147 of Negotiable Instruments Act. The contents of the affidavit in Crl.M.P.No.4803 of 2016 are read over to the parties and they have understood the contents of the said Miscellaneous Petition in right earnest.

6. It is to be pointed out that an offence under Section 138 of Negotiable Instruments Act does not pertain to the society at large but only against certain person namely complainant to whom certain amount is due under the cheque. As such, it is legally permissible for the parties to compound offence under Section 138 of the Negotiable Instruments Act.

7. It is to be remembered that Section 4 of Cr.P.C., provides that all offences under any other Law would be investigated, inquired into, tried and otherwise dealt with according to the same provisions of Cr.P.C., subject to any enactment for the time being in force regulating the manner or place of investigating, inquiry into, trying or otherwise deals with such offences. In fact, compounding of offence could very well be brought into the category of 'Otherwise dealing with the offence'.

8. At this stage, this Court aptly points out that in view of insertion of Section 147 in Negotiable Instruments Act, 1881, the offences under the said Act are compoundable and indeed Section 320(9) of Cr.P.C., is not an impediment. As a matter of fact Section 147 of the Negotiable Instruments Act would prevail over the schedule including Section 320(6) of Cr.P.C., and an offence under the Act can be compounded. To put it precisely, Section 320(9) of Cr.P.C., does not prohibit compounding of offences under other Laws. As such, an offence under Section 138 of the Negotiable Instruments Act is very much compoundable, as opined by this Court.

9. By virtue of the ingredients of Section 320 (8) of Cr.P.C., the effect of compounding is acquittal of accused as per decision Rajindar Singh V.State of Delhi Administration reported in AIR 1980 Supreme Court at Page 1200

10. Be that as it may, in view of the fact that Crl.M.P.No.4803 of 2016 filed before this Court on behalf of the parties, which was duly signed by the Advocates, the same is taken on file and this Court accepts the said Petition and records the handing over of Cheque bearing No.599244 for Rs.4,38,200/- (Rupees Four Lakhs Thirty Eight Thousand only) dated 04.04.2016 (in full and final settlement of the claim) to the Respondent / Complainant and accordingly disposes of the present Revision Petition by setting aside the Judgment of Learned Judicial Magistrate (Fast Track), Omalur in C.C.No.23 of 2013 dated 09.07.2013 as well as the Judgment of the Appellate Court in Criminal Appeal No.66 of 2013 dated 09.12.2015 and resultantly acquits the Revision Petitioner. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

ssd

To

1.The Learned Principal Sessions Judge, Salem
2. The Learned Judicial Magistrate Court (Fast Track Court), Omalur

1 cc to Mr.S.Doraisamy, Advocate, sr.25262

1 cc to Mr.R.Murugabharathi, Advocate, sr.25089

Crl.R.C.No.59 of 2016 and
Crl.M.P.Nos.4803 of 2016; 393 of 2016 and 442 of 2016

pur co

kra-13.05.2016

<https://hcservices.ecourts.gov.in/hcservices/>