

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:06.09.2017

CORAM

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

Crl.RC.Nos.1101 and 1102 of 2017

1.M.Muthukrishnan & Sons
Rep. by its Partner Mr.M.Vasudevan

2. M.Vasudevan .. Petitioners in both CrI RCs

Vs.

Mahalingam .. Respondent in both CrI.RCs

Prayer in Crl.RC.No. 1101 of 2017: Petition filed under Section 397 and 401 of Cr.P.C to set aside the conviction and sentence imposed on the petitioner dated 20.02.2017 made in C.A.No.33 of 2016 on the file of the II Additional District and Sessions Judge, Salem confirming the conviction and sentence imposed on them dated 09.02.2016 made in C.C.No.256 of 2012 on the file of the Judicial Magistrate No.II, Salem by allowing the present criminal revision petition.

Prayer in Crl.RC.No. 1102 of 2017: Petition filed under Section 397 and 401 of Cr.P.C to set aside the conviction and sentence imposed on the petitioner dated 20.02.2017 made in C.A.No.32 of 2016 on the file of the II Additional District and Sessions Judge, Salem confirming the conviction and sentence imposed on them dated 09.02.2016 made in C.C.No.232 of 2012 on the file of the Judicial Magistrate No.II, Salem

by allowing the present criminal revision petition.

For Petitioners
in both Crl.RCs : Mr.B.Kumarasamy

For Respondent
in both Crl.RCs : Mr.E.C.Ramesh

COMMON ORDER

Crl.R.C.No.1101 of 2017 has been filed against the order of conviction passed by the Judicial Magistrate No.II, Salem in C.C.No.256 of 2012 by order dated 09.02.2016 as confirmed by the order of the Appellate Court, i.e., II Additional District and Sessions Judge, Salem made in C.A.No.33 of 2016 dated 20.02.2017.

Crl.R.C.No.1102 of 2017 has been filed against the order of conviction made by the trial Court, i.e., Judicial Magistrate No.II, Salem in C.C.No.232 of 2012 dated 09.2.2016 as confirmed by first Appellate Court, namely, II Additional District and Sessions Judge, Salem made in C.A.No.32 of 2016 dated 20.02.2017.

2. Both the cases are arising out of the complaint made by the respondent against the petitioner / accused for an offence punishable under Section 138 of the Negotiable Instruments Act. The trial Court,

after completing the trial, by its Judgments in both the cases convicted the petitioner by imposing sentence of imprisonment as well as fine. The said Judgments of the trial Court, since have been appealed by the petitioners in the respective appeals referred to above, have also been confirmed by the Appellate Court in the respective Judgments referred to above. As against these two Judgments, the present revisions have been filed as stated above.

3. Initially, notice was issued to be served privately to the respondent pursuant to which, notice had been served on the respondent and on receipt of notice, Mr.E.C.Ramesh, learned counsel appeared for the respondent in both the cases.

4. Mr. B.Kumarasamy, learned counsel appearing for the petitioner and Mr.E.C.Ramesh, learned counsel appearing for the respondent today have made a joint submission that the matter has been settled between the parties in both the cases and in view of the settlement, both parties wanted to file a joint compromise memo before this Court. Accordingly, in the afternoon session, in the presence of the parties, i.e., the second petitioner and the respondent, a joint compromise memo had been filed in both the cases.

5. According to the said compromise memo, out of the total cheque amount of Rs.5,00,000/- (Rupees Five Lakhs only) for both the cases combinedly, it was agreed between the parties to receive Rs.3,75,000/- (Rupees Three Lakhs and Seventy Five Thousand only) by the respondent / complainant. Accordingly, the said amount had been paid by the petitioner and receipt of the said amount also had been acknowledged by the respondent.

6. In view of the said settlement, both the parties in the joint memo had requested that the offence punishable under Section 138 of Negotiable Instruments Act, for which punishment and sentence had been imposed against the petitioner, can be compounded.

7. I have heard the learned counsel appearing for both sides and have taken note of the contents made in the joint compromise memo filed separately in both cases.

8. After hearing the learned counsel appearing for the parties and after having gone through the said compromise memo separately filed in these cases, this Court is inclined to pass the following order:

" (i) In view of the settlement reached between the parties as recorded in the compromise memo, separately filed in these criminal revision cases, dated 06.09.2017, signed both by petitioner as well as respondent and their respective counsels, the said settlement as reduced in writing in the said compromise memo is taken on record and the said compromise memo shall form the part of this common order.

(ii) In view of the said settlement, offences committed by the petitioner for which punishment was awarded against him is hereby compounded in view of the compounding of the offences as recorded above.

(iii) The conviction made by the trial Court in CC.Nos. 256 and 232 of 2012 by Judgments dated 09.02.2016 as confirmed by the first Appellate Court, namely, II Additional District and Sessions Judge, Salem in C.A.Nos.33 and 32 of 2016 by Judgments dated 20.02.2017 are hereby set aside."

9. Accordingly, these revision cases are disposed of.

Index: Yes
Internet: Yes
kua

06.09.2017

R.SURESH KUMAR,J.

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To

1. The II Additional District and Sessions Judge,
Salem.
2. The Judicial Magistrate No.II, Salem



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