

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2017

CORAM

THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

CrI.RC.No.1162 of 2017

and

CrI.MP.Nos.11096 to 11098 of 2017

1.M/s.Protech Pins
rep.by its Proprietor
Mr.S.Herman,
S/O.Solomon Getto,
Lilli Hatty,
Kotagiri,
The Nilgiris.

2.S.Herman

... Petitioners

Vs.

V.Suryamurthy

... Respondent

Criminal Revision filed under Sections 397 (1) and 401 Cr.P.C. to set aside the Judgment dated 20.01.2017 pass by the learned III Additional District and Sessions Judge, Coimbatore, in C.A.No.198 of 2015 confirming the Judgment dated 13.08.2015 passed by the learned Judicial Magistrate, Fast Track Court (Magisterial Level-II), Coimbatore, in C.C.No.220 of 2013.

For Petitioners: Mr.L.Mouli

For Respondent : Mr.Ravi Shankar Rao

ORDER

This revision case has been filed against the conviction and sentence passed by the learned Judicial Magistrate, Fast Track Court (Magisterial Level-II), Coimbatore, made in C.C.No.220 of 2013, by order dated 13.08.2015, as confirmed by the learned III Additional District and Sessions Judge, Coimbatore, in C.A.No.198 of 2015 by order dated 20.01.2017.

2.The petitioner/accused has been convicted by the trial Court and sentenced to undergo Simple Imprisonment for one year and to pay a fine of Rs.5,000/- in default to undergo Simple Imprisonment for three months for the offence punishable under Section 138 of the Negotiable Instruments

3.As against the said Judgment, the petitioner/accused filed an appeal in C.A.No.198 of 2015 on the file of the learned III Additional District and Sessions Judge, Coimbatore and in the said appeal, the Judgment of the trial Court has been confirmed by order dated 20.01.2017, against which, the above referred Criminal Revision Case has been filed.

4.When the revision came up for hearing, during the last occasion, it was represented by the learned counsel appearing for the petitioners as well as the respondent that, after filing the revision case, a settlement has been reached between the parties and in order to file a copy of the Compromise Agreement as well as the Joint Compromise Memo before this Court, sought for time and accordingly, the case is listed today.

5.Today, Mr.L.Mouli, learned counsel appearing for the petitioners as well as Mr.Ravi Shankar Rao, learned counsel appearing for the respondent have submitted that the settlement has been reached between the parties on 19.08.2017 and in this regard, a Compromise Affidavit has also been made by the respondent/complainant and pursuant to which, a Joint Compromise Memo signed by both the parties as well as their respective counsel have also been filed before this Court.

6.I have considered the said submissions made by both sides and I have gone through the copy of the Compromise Affidavit filed by the respondent/complainant dated 19.08.2017 as well as the Joint Compromise Memo filed by both the parties dated 22.09.2017. In fact, both the parties are present today before this Court and they agreed that the settlement has been reached in terms of Compromise Memo filed before this Court.

7.According to the said Compromise Memo, a sum of Rs.1,50,000/- was paid by the petitioners to the respondent on 19.08.2017 and on receipt of the same, the respondent/complainant has expressed his desire to compound the case and to dispose the Criminal revision Case accordingly. The relevant portion of the Compromise Memo dated 22.09.2017 is extracted hereunder.

"4.The petitioners and the respondent submits that after filing of the Criminal Revision Petition before this Hon'ble Court, the petitioners and the respondent herein decided to amicably settle the dispute among themselves and it was decided that the petitioners shall pay a sum of Rs.1,50,000/- as in full satisfaction and accordingly, on 19.08.2017, the petitioners had paid Rs.1,50,000/- in cash to the respondent herein and the respondent herein executed Notarized Compromise Affidavit dated 19.08.2017.

5.The petitioners and the respondent humbly prays that this Hon'ble Court may be pleased to record the Joint Memo of Compromise and allow the Criminal Revision Petition in CrI.RC.No.1162 of 2017 by setting aside the Judgment dated 20.01.2017 passed by the Hon'ble III Additional District and Sessions Judge, Coimbatore, in C.A.No.198 of 2015, confirming the conviction and sentence of the 2nd petitioner to undergo Simple Imprisonment for a period of one year and to pay a fine of Rs.5,000/- in default shall undergo two months Simple Imprisonment imposed by the learned Judicial Magistrate, Fast Track Court at Magisterial Level-II, Coimbatore, by Judgment dated 13.08.2015 in C.C.No.220 of 2013."

8.Since the offence punishable under Section 138 of the Negotiable Instruments Act, is compoundable, the petitioners as well as the respondent i.e, the accused and complainant, after having settled the matter between them amicably, have come before this Court by filing the aforesaid Joint Compromise Memo. Taking into account the said compromise reached between the parties and by recording the said Compromise Memo, this Court is inclined to pass the following orders in this revision.

The Judgment and sentence imposed against the petitioners/accused by the learned Judicial Magistrate, Fast Track Court (Magisterial Level-II), Coimbatore in CC.No.220 of 2013 dated 13.08.2015, as confirmed by the Appellate Court i.e, the III Additional District and Sessions Judge, Coimbatore, made in C.A.No.198 of 2015 dated 20.01.2017, are hereby set aside.

2)In view of the compromise entered into between the parties and the same having been recorded by this Court, the offence for which conviction made against the petitioner is hereby compounded.

In the result, this Criminal Revision Case is disposed of with the terms as indicated above. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (AR-J)

//True Copy//

Sub Assistant Registrar

To

1.The III Additional District and Sessions Judge,
Coimbatore.

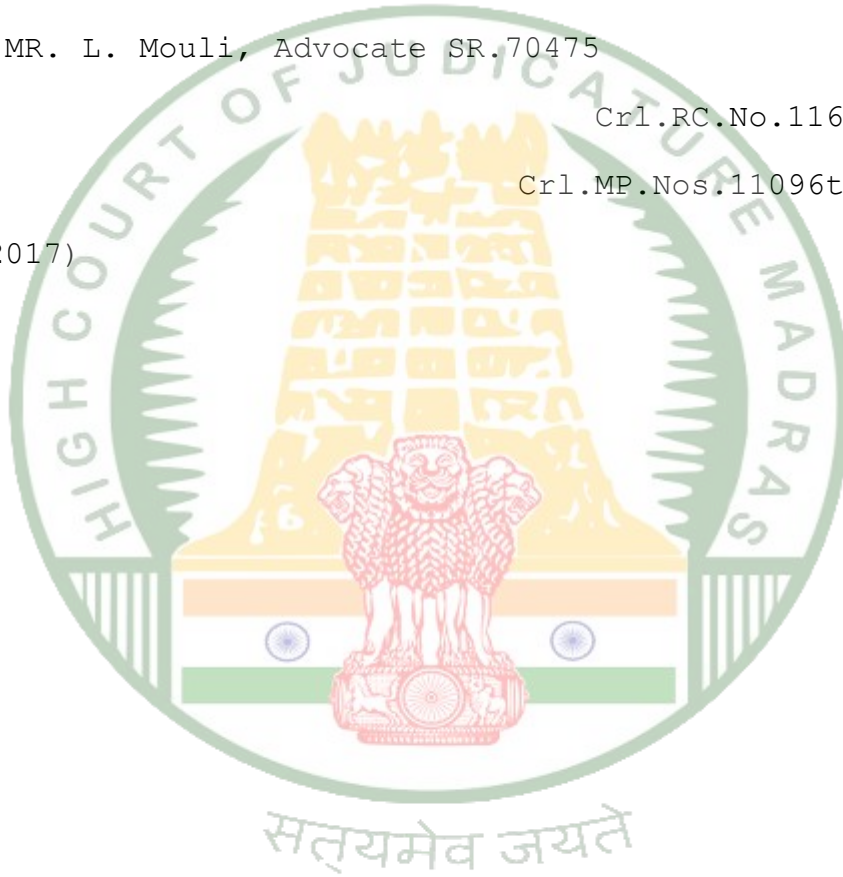
2.The Judicial Magistrate,
Fast Track Court (Magisterial Level-II),
Coimbatore.

+ 1 cc to MR. L. Mouli, Advocate SR.70475

CrI.RC.No.1162 of 2017
and

CrI.MP.Nos.11096to11098/17

AR-J
EU(16/11/2017)



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