

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2017

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Crl.R.C.No.1177 of 2017
and
Crl.M.P.Nos.11224 and 11225 of 2017

Kathir

..

Petitioner

Vs

Jalapathi

..

Respondent

Revision filed under Section 397 and 401 of the Criminal Procedure Code to set aside the order dated 20.06.2016 passed by the Principal Sessions Judge, City Civil Court, Chennai in Crl.M.P.No.2117 of 2015 against C.C.No.3530 of 2009 on the file of IV Fast Track Metropolitan Magistrate, George Town, Chennai.

For Petitioner : Mr.S. Arivazhagan

For respondent : Mr.W.M. Abdul Azeez

ORDER

Against the order of conviction made by the trial Court in C.C.No.3530/2009 on the file of IV Fast Track Court, George Town Chennai, the petitioner/accused had filed an appeal before the first appellate court, where, since there was a delay of 110 days in filing the appeal, the petition to condone the said delay was filed under

Sec.5 of the Limitation Act.

2. During the pendency of the decision to be taken in the petition filed to condone the delay, the matter was referred to Mediation Centre, where, according to the report dated 01.06.2016, both the parties had agreed upon to settle the matter, according to which, the respondent/complainant would receive a sum of Rs.70,000/- and on receipt of the same, the matter would be settled.

3. In this regard, it may be relevant to state that out of Rs.70,000/-, as agreed between the parties, a sum of Rs.47,400/- had been paid by the petitioner/accused to the respondent/complainant. Therefore even according to the agreed amount of RS.70,000/-, the remaining amount to be paid by the petitioner/accused is only Rs.22,600/-. Only at that stage, the said condonation petition was taken up for hearing on 20.06.2006 and on that date, since the petitioner did not present before the court, the learned Judge dismissed the said petition, as against which, the present revision has been filed.

4. As a matter of fact, the learned counsel appearing for the petitioner would state that it was agreed upon to settle the matter between the parties. Out of Rs.70,000/- the petitioner had already

deposited Rs.47,400/-. Therefore, the remaining balance is only Rs.22,600/- and even for the said balance amount, the petitioner was ready and willing to make the payment. However, after having known to the fact that the issue had been settled by the parties and a report to that effect has been received by the Court from the Mediation Centre, the learned Judge had dismissed the case by invoking default clause. Therefore, the order impugned has to be interfered with so as to enable the parties to complete the settlement process.

5. Heard Mr.V.M. Abdul Azeez, learned counsel for the respondent in this regard.

6. The learned counsel would state that Rs.70,000/-, was agreed for settlement as on 16.09.2015. Therefore, almost two years period has gone by this time. Therefore, at least for the interest sake, some more amount may be directed to be paid by the petitioner.

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7. I have considered the said submissions made by the learned counsel for both sides.

8. As per the report of the mediation centre, out of the agreed amount of Rs.70,000/- towards settlement, admittedly, the

respondent/complainant received a sum of Rs.47,400/-. Therefore, the remaining amount was only Rs.22,600. For the said amount, if it is calculated from 16.09.2015, it would not fetch much interest. At any rate, to meet ends of justice, enabling both the parties to settle the matter, as they already agreed upon and in part that have acted upon as per the agreement, the following order is passed in this revision:

(i) that the impugned order is set aside;

(ii) both the petitioner as well as the respondent shall report before the first appellate court by filing compromise memo expressing their willingness to settle the matter between them and also to request the learned Judge to compound the offence.

(iii) before such compromise memo to be filed before the first appellate court, the petitioner shall pay a sum of Rs.22,600/- (Rupees twenty two thousand six hundred only) as remaining balance out of the agreed amount of Rs.70,000/- and also pay a sum of Rs.5,000/- towards interest between

16.09.2015 till the date of payment.

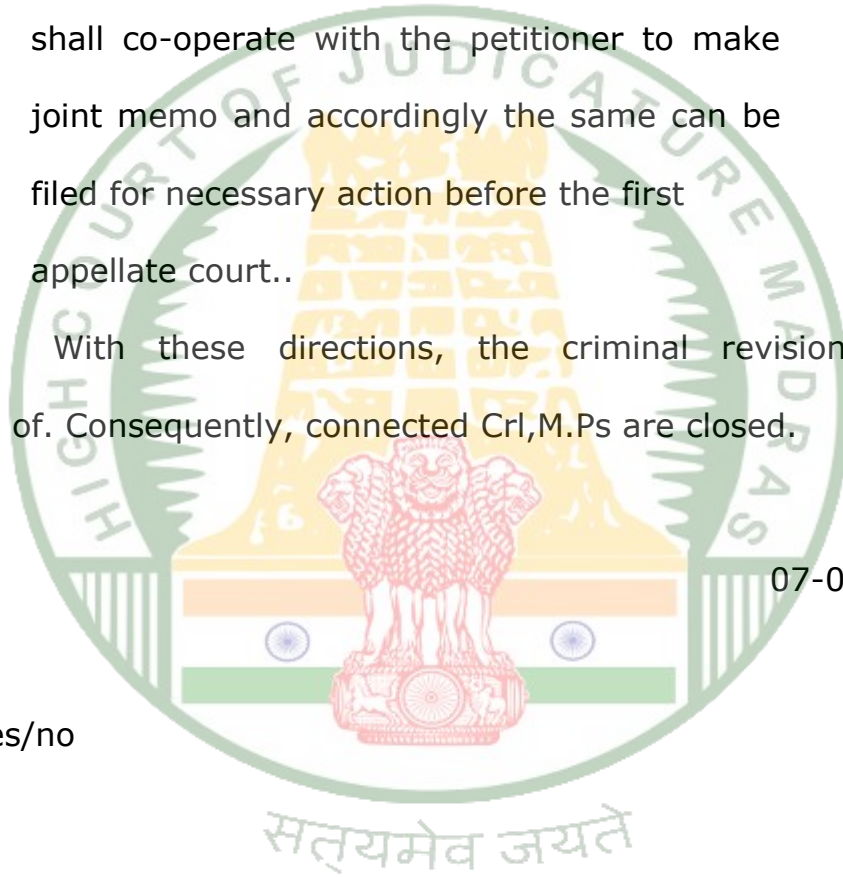
(iv) on receipt of the said amount of Rs.22,600/- + Rs.5,000/-, the respondent shall co-operate with the petitioner to make joint memo and accordingly the same can be filed for necessary action before the first appellate court..

9. With these directions, the criminal revision case is disposed of. Consequently, connected Crl,M.Ps are closed.

07-09-2017

sr

Index:yes/no



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R. SURESH KUMAR,J.,

sr

To

1. The Principal Sessions Judge, City Civil Court, Chennai
2. The IV Fast Track Metropolitan Magistrate, George Town, Chennai.



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