

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2017

Coram

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Crl.R.C.No.549 of 2017
and
Crl.M.P.No.4882 of 2017

S. Manonmani Petitioner/Accused

//vs//

P. Kalimuthu Respondent/Complainant

Prayer: Criminal Revision Petition filed under Section 397 & 401 of the Code of Criminal Procedure praying to set aside the order made in Crl.M.P.No.487 of 2017 in C.A.No.42 of 2017 on the file of the Principal District and Sessions Court, Coimbatore and suspend the order of sentence made in C.C.No.12 of 2015, dated 15.12.2016 on the file of the Judicial Magistrate Fast Track - II, Coimbatore.

For Petitioner : Mr.N.Anand Venkatesh

For Respondent : Mr.D.R.Arun Kumar

ORDER

Petitioner is an accused in C.C.No.12 of 2015 on the file of the Judicial Magistrate, Fast Track Court at Magisterial level-II, Coimbatore and he stood convicted for an offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for nine months and to pay the cheque amount of Rs.1,30,000/-, as compensation with simple interest at the rate of 9% per annum from the date of cheque till realisation to the Complainant within a month, in default, to undergo simple imprisonment for three months, by a judgment dated 05.12.2016. At the time of pronouncing the Judgment, since the accused did not present before the trial court, the trial court issued a Non-bailable warrant against him.

2. Challenging the conviction and sentence, the petitioner had preferred an appeal in C.A.No.42 of 2017 on the file of the Principal District and Sessions Court, Coimbatore, and also filed an application in C.M.P.No.487 of 2017 to suspend the sentence, the lower appellate court, by an order dated 24.02.2017, dismissed the said application stating that since Non-Bailable Warrant is pending against the petitioner, without recalling the warrant, the sentence cannot be suspended. Now, challenging the said order, the present revision has been filed.

3. The learned counsel appearing for the petitioner submitted that now the dispute has been settled between the parties and they are also willing to compound the offence. The counsel for the respondent also not disputing the same.

4. Taking into consideration of the fact that the matter has been settled between the parties, Substantive sentence of imprisonment alone is suspended and the petitioner is released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Fast Track Court at Magisterial level-II, Coimbatore. The petitioner and the respondent/complainant are directed to appear before the Principal District and Sessions Court, Coimbatore, on 27.04.2017 and file a petition to compound the offence, on filing such petition, the lower appellate court is directed to consider the application and pass orders on merits.

5. With the above directions, this Criminal Revision Case is disposed of. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CS II)

True Copy

Sub-Assistant Registrar

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To

1. The Principal District and Sessions Judge
Coimbatore

2. The Judicial Magistrate
Fast Track Court II
Coimbatore

+1 Cc to Mr.N.Anand Venkatesh, Advocate sr 24283

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