

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2017

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.R.C. No.1359 of 2012

1. M/s.Sri Lakshmi Wood Works,
represented by its Partner,
Arumugam,
No.11, Rajiv Gandhi Nagar,
Udayampalayam,
Coimbatore - 641 028.
 2. Arumugam,
Partner of M/s Sri Lakshmi Wood Works
No.11, Rajiv Gandhi Nagar,
Udayampalayam,
Coimbatore - 641 028.
- ... Petitioners

Vs

K.A.Syed Mohammed
S/o, Abdul Razak,
808, Salavin Street,
Coimbatore 641 001.

... Respondent

Prayer:The Criminal Revision Petition filed under Section 397,r/w.401 of the Criminal Procedure Code, against the judgment dated 23.07.2012 made in C.A.No.45 of 2012 on the file of the I Additional District and Sessions Judge, Coimbatore confirming the judgment of conviction dated 03.01.2012 made in C.C.No.392 of 2011 on the file of the Judicial Magistrate, Fast Tract Court No.II, Coimbatore.

For Petitioners: Mr.J.Pradeep for
Mr.P.Saravana Sowmiyan

For Respondent : respondent present

O R D E R

This revision has been filed as against the judgment dated 23.07.2012 made in C.A.No.45 of 2012 on the file of the I Additional District and Sessions Judge, Coimbatore confirming the judgment of conviction dated 03.01.2012 made in C.C.No.392 of 2011 on the file of the Judicial Magistrate, Fast Tract Court No.II, Coimbatore.

2. The brief facts of the case of the complainant is as follows :

The first accused being the firm represented by the second accused, who is the Managing Partner of the firm, has borrowed a sum of Rs.5,00,000/- from the complainant and issued Ex.P.2 cheque dated 19.05.2008 drawn on Indian Bank. The above cheque was presented for encashment through his bank and it has been dishonoured vide memo dated 21.05.2008 Ex.P.3. Thereafter, the complainant issued Ex.P.5 legal notice, dated 17.06.2008 and the same has been received by the accused and the acknowledgement for service of notice is Ex.P.6. Bank statements of the complainant is Ex.P.7. No witness was examined on the side of defence.

3. The trial court found the accused guilty under section 138 of the Negotiable Instruments Act and imposed a fine of Rs.3000/- to the first accused and imposed 10 months simple imprisonment on the second accused and fine of Rs.3000/- with defaulting sentence of two months simple imprisonment. As against which, an appeal was also preferred and the appellate court confirmed the conviction and sentence of the trial Court by a judgment dated 23.07.2012 in Criminal Appeal No.45 of 2012 on the file of the I Additional Sessions Judge, Coimbatore. As against the same, this revision has been preferred.

4. At the time of arguments in this revision, a petition under section 147 of the Negotiable Instruments Act has been filed to compound the offence between the parties. In the said memo, the revision petitioner and the respondent have signed in the presence of the counsel for the revision petitioner and it was also attested by the notary public.

5. The complainant and the second accused were present and the first accused is being represented by the second accused. The respondent is present before this Court and for proof of his identity the respondent has produced his driving licence bearing No.TN 66/DLR/0001518/2015, dated 27.2.2015. Both filed the application stating that the matter has been compounded among

themselves, hence prayed for allowing this revision.

6. It is also brought to the notice of this Court that while granting suspension of sentence, this Court directed the accused to deposit a sum of Rs.1,00,000/- to the credit of C.C.No.392 of 2011 on the file of the Judicial Magistrate, Fast Track No.II, Coimbatore. The learned counsel for the petitioner also produced a xerox copy of the receipt to show that the amount has been deposited as per the direction of the Court in CrI.M.P.No.2 and 3 of 2012 dated 08.11.2012. The above amount is lying in the credit of C.C.No.392 of 2011.

7. In the above circumstances, the conviction and sentence imposed on the petitioner by the Courts below are set aside and the offence under Section 138 Negotiable Instruments Act is compounded. The amount of Rs.1,00,000/- deposited by the revision petitioner in the credit of C.C.No.392 of 2011 is ordered to be refunded to the revision petitioners.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vrc

To

1. The I Additional & Sessions Judge,
Coimbatore.
2. The Judicial Magistrate,
Fast Track Court No.II,
Coimbatore.

+1cc to Mr.P.Saravanan Sowmiyan, Advocate, S.R.No.42001

CrI.R.C. No.1359 of 2012

SVI (CO)
RS (28/06/2017)