

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.A.No.346 of 2009

And

Crl.O.P.Nos.90 and 935 of 2009

and

M.P.Nos.1&1 of 2009

in

Crl.OP.Nos.90 & 935 of 2009

Crl.A.No.346 of 2009:

M/s.Salona Cotspin Ltd.,
Rep by its Manager and
Authorised Agent
Ajay Agarwal

... Appellant/Complainant

Vs.

Jothi Rangasamy

... Respondent/Accused

Prayer:

Appeal filed under Section 378 of Cr.P.C. seeking to set aside the order of acquittal made in the judgment dated 16.12.2004 made in C.C.No.371 of 2003 [on the file of the Judicial Magistrate No.I, Tirupur] and convict the respondents.

For Appellant : Mr.ARL.Sundaresan
Senior Counsel
for M/s.C.Vigneswaran

For Respondent : Mr.G.B.Hari
for M/s.Ram and Ram

Crl.O.P.No.90 of 2009:

1.M/s.Salona Cotspin Ltd.,
Rep by its Managing Director,
Shyamlal Agarwala

2.Shyamlal Agarwala

..Petitioners/Accused 1&2

Vs.

Jyothi Rangasamy

..Respondent

Prayer:

Petition filed under Section 482 of Cr.P.C. seeking to call for the records in C.C.No.141 of 2008 on the file of the learned Judicial Magistrate-I, Tirupur, quash the proceedings as against the petitioners.

For Petitioners: Mr.ARL.Sundaresan
Senior Counsel
for M/s.R.S.Pandiyaraj
For Respondent : Mr.G.B.Hari
for M/s.Ram and Ram

Crl.O.P.No.935 of 2009:

1.Rampratap Barasia
2.G.V.S.Desikan
3.Kanhayalal Sharma
4.Dulichand Pansari
5.Mahesh Agarwal
6.Manoj Kumar Jhaharia
7.Ajay Agarwal

..Petitioners/Accused 3to9

Vs.

Jyothi Rangasamy
Proprietor of Shanmathi Export,
Export, Tirupur.

..Respondent

Prayer:

Petition filed under Section 482 of Cr.P.C. seeking to call for the records in C.C.No.141 of 2008 on the file of the learned Judicial Magistrate-I, Tirupur, quash the proceedings as against the petitioners.

For Petitioners: Mr.ARL.Sundaresan
Senior Counsel
for M/s.R.S.Pandiyaraj
For Respondent : Mr.G.B.Hari
for M/s.Ram and Ram

C O M M O N J U D G M E N T

The appellant in Crl.A.No.346 of 2009 has filed the appeal seeking to set aside the judgment dated 16.12.2004 made in C.C.No.371 of 2003 on the file of the learned Judicial Magistrate No.I, Tirupur.

2.The appellant is the complainant and the respondent is the accused in C.C.No.371 of 2003. The case of the appellant is that there was business transaction inbetween the appellant and the respondent. The respondent has purchased yarn worth about Rs.2,11,781/-. Inorder to discharge his liability, the respondent issued a cheque dated 31.08.2002 for a sum of Rs.2,10,900/- drawn from Canara Bank, Tiruppur Branch. The said instrument when presented for collection on 31.08.2002 was returned as 'insufficient funds' on the same day. Thereafter, the appellant sent legal notice to the respondent to his official address as well as to his residential address on 12.09.2002 and the same was received by the respondent on 13.09.2002 and 17.09.2002. Thereafter, the respondent sent reply with false allegations on 20.09.2002. Hence, the appellant filed the case in C.C.No.371 of 2003.

3.After trial, the Trial Court dismissed the case in C.C.No.371 of 2003 on the ground that there are material alteration with regard to the issuance of the cheque. Aggrieved by the said dismissal, the present criminal appeal has been filed by the appellant.

4.The petitioners in Crl.O.P.Nos.90 and 935 of 2009 have filed the petitions seeking to call for the records in C.C.No.141 of 2008 on the file of the learned Judicial Magistrate-I, Tirupur and to quash the proceedings as against the petitioners.

5.The respondent in Crl.O.P.Nos.90 and 935 of 2009 has filed petition under Section 340 of Cr.P.C. r/w. 195(1)(b) of Cr.P.C. seeking to initiate prosecution as against the first petitioner in Crl.O.P.No.90 of 2009 and since the said petition was dismissed, the respondent in Crl.O.P.Nos.90 and 935 of 2009 has filed C.C.No.141 of 2008 as against the petitioners in Crl.O.P.Nos.90 and 935 of 2009. Aggrieved by the same, the petitioners have filed Crl.O.P.Nos.90 and 935 of 2009 seeking to quash the proceedings in C.C.No.141 of 2008.

6.Today, when the matter was taken up for consideration, the parties filed compromise memo, dated 27.11.2018, duly signed by the learned counsel appearing for the appellant in Crl.A.No.346 of 2009, the learned counsel appearing for the petitioners in the criminal original petitions and the learned counsel appearing for the respondent in the criminal appeal as well as in criminal original petitions. The relevant portion of the compromise memo reads as follows:

"In view of the same the Petitioner will not press further this Criminal Appeal No.346 of 2009 filed against the order passed in C.C.No.371 of 2003 on the file of the Learned Judicial Magistrate-I, Tirupur. Similarly

the Respondent No.1 in CrI.O.P.No.90 & 935 of 2008 will not press the private complaint in C.C.No.141 of 2008 on the file of the Learned Judicial Magistrate-I, Tirupur."

7.Further, the learned counsel appearing for the appellant in the criminal appeal, on instructions, made an endorsement to the effect that the appeal may be dismissed. The learned counsel appearing for the respondents in the criminal original petitions, on instructions, made an endorsement to the effect that the petitions may be allowed.

8.In view of the compromise memo filed by the parties, the criminal appeal is dismissed and the criminal original petitions are allowed.

9.The criminal appeal is dismissed. The judgment dated 16.12.2004 made in C.C.No.371 of 2003 on the file of the learned Judicial Magistrate No.I, Tirupur, is hereby confirmed.

10.The criminal original petitions are allowed and the private complaint/ proceedings in C.C.No.141 of 2008 on the file of the learned Judicial Magistrate-I, Tirupur, is hereby quashed. Consequently, connected miscellaneous petitions are closed.

(Mome of Compromise dated 27.11.2018 xerox copy enclosed)

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Judicial Magistrate No.I, Tirupur.
 - 2.The Chief Judicial Magistrate Coimbatore.
- + 1 cc to Mr.R.S. Pandiyaraj, Advocate Sr.81197
+ 1 cc to M/s. Ram and Ram, Advocate SR.81229

CrI.A.No.346 of 2009

And

CrI.O.P.Nos.90 and 935 of 2009

RSI (CO)
EU(14/12/2018)