



BAIL SLIP

The Petitioners/Accused viz., 1.Mumtaz Hasan and 2.Mustaq Hasan, were directed to released to be on bail as per the order of this court dated 25.03.2013 made in MP.Nos.1 & 2 of 2013 in CrI.R.C.No.390 of 2013, and in M.P.Nos.1 & 2 of 2013 in CrI.R.C.No.391 of 2013 dated 22.03.2013.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN
CrI.R.C.Nos.390 and 391 of 2013
and
M.P.Nos.13162 and 13163 of 2018

Mumtaz Hasan

...Petitioner in
CrI.R.C.No.390 of 2013

Mustaq Hasan

...Petitioner in
CrI.R.C.No.391 of 2013

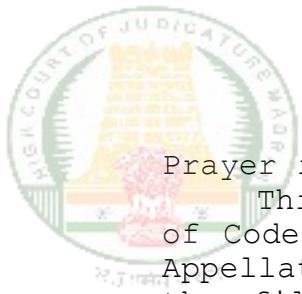
Vs.

Mr.Steel Fabs,
Represented by its Partner,
Mr.Karunanidhi, M/A. 41 Years,
s/o.Narayanasamy,
K.7 Industrial Estate, Kurichi
Coimbatore.

...Respondent in both Petitions

Prayer in CrI.R.C.No.390 of 2013:

This Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure against the Judgment of the lower Appellate Court made in C.A.No.141 of 2012 dated 17.12.012 on the file of the learned IV Additional District and Sessions Judge, Coimbatore, confirming the conviction and sentence passed by the learned Judicial Magistrate Fast Track Court at Magisterial Level II, Coimbatore by judgment dated 17.04.2012 and made in C.C.No.503 of 2011, Convicting the petitioner herein for the offence under section 138 of the Negotiable instruments Act and sentencing her to undergo one month simple Imprisonment and to pay fine of Rs.2,000/- in default to undergo one month Simple Imprisonment.



Prayer in CrI.R.C.No.391 of 2013:

This Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure against the Judgment of the lower Appellate Court made in C.A.No.140 of 2012 dated 17.12.012 on the file of the learned IV Additional District and Sessions Judge, Coimbatore, confirming the conviction and sentence passed by the learned Judicial Magistrate Fast Track Court at Magisterial Level II, Coimbatore by judgment dated 17.04.2012 and made in C.C.No.502 of 2011. Convicting the petitioner herein for the offence under section 138 of the Negotiable instruments Act and sentencing him to undergo six months Simple Imprisonment and to pay fine of Rs.5,000/- in default to undergo 3 months Simple Imprisonment.

For Petitioner : Mr.Jerome Pushparaj
(in both petitions)

For Respondent : party in person

ORDER

The Criminal Revisions have been filed against the Judgment of the lower Appellate Court in C.A.No.140 and 141 of 2012 dated 17.12.012 on the file of the learned IV Additional District and Sessions Judge, Coimbatore, confirming the conviction and sentence passed by the learned Judicial Magistrate Fast Track Court at Magisterial Level II, Coimbatore by judgment dated 17.04.2012 in C.C.No.502 of 2011.

2 The case of the respondent/complainant is that the complainant is the manufacturer of cubic petrol and accessory components. Mustaq Hasan is the proprietor of M/s.Alliance Service. The accused is proprietrix of M/s.Armour Services. Towards the discharge of liability of the sister concern M/s.Alliance Services, the accused issued a cheque bearing No.507773 dated 05.11.2007 drawn on Corporation Bank, Velandipalayam Branch, Coimbatore for a sum of Rs.1,00,000/-. The complainant presented the cheque in Indian Overseas Bank, Kurichi, Coimbatore, for encashment and the same has been returned for want of insufficient funds. Thereafter, the respondent sent a statutory notice to the accused on 21.04.2008. Even though the appellant/accused acknowledged the notice, he did not send any reply for the same. Hence, the respondent/complainant has filed a private complaint before the learned Judicial Magistrate, Fast Track Court Coimbatore, and the same was taken on file in C.C.No.503 of 2011.



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3 The learned Magistrate, after trial, found the petitioners/accused guilty under Section 138 of Negotiable Instruments Act, and sentenced the petitioner/accused (in Crl. RC.No.390 of 2013) to undergo simple imprisonment for a period of one month and to pay fine of Rs.2000/-, in default, to undergo one months simple imprisonment and sentenced the petitioner/accused(in Crl. RC.No.391 of 2013) to undergo simple imprisonment for a period of six months and to pay a fine of Rs.5,000/-, in default, to undergo three months simple imprisonment. Aggrieved against the same, the petitioners have filed appeal in C.A.Nos. 140 and 141 of 2012 before the learned IV Additional District and Sessions Judge, Coimbatore. The lower appellate Court, being a fact finding Court, re-appreciated the entire evidence, and after giving due opportunities to both the parties, dismissed the appeal by judgment dated 17.12.2012 and thereby, confirmed the conviction and sentence passed by the trial Court.

4 Aggrieved against the said judgment dated 17.12.2012 in C.A.Nos.140 and 141 of 2012, the accused have preferred these present criminal revisions before this Court.

5 The learned counsel for the petitioners/accused would submit that during the pendency of the revisions, the matter has been settled between the parties. The offence under Section 138 of Negotiable Instruments Act is compoundable in nature. Therefore, the learned counsel prayed to set aside the order passed by the learned Magistrate in C.C.No.502 of 2011 dated 17.04.2012.

6 Heard the learned counsel appearing for the petitioner and perused the materials available on record.

7 The learned counsel for the revision petitioners have filed miscellaneous petitions in M.P.No.13163 of 2018 in Crl.R.C.No.390 of 2013 and M.P.No.13162 of 2018 in Crl.RC.No.391 of 2013, under Section 147 of Negotiable Instrument Act, for compounding the offence and have also filed a compromise memo.

8 Today when the matter was taken up for hearing, both the revision petitioners and the respondent appeared before this Court and they have admitted that they have settled the issue.

9 On a careful perusal of the records and on enquiring the parties, it is clear that the parties have settled the matter between them.

10 Therefore, this Court is inclined to set aside the conviction and sentence imposed by the court below and allow the criminal Revisions.



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11 Accordingly, the Criminal Revision Cases are allowed.
Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The IV Additional District and Sessions Judge,
Coimbatore.
2. Do Through Principal Sessions Judge,
Coimbatore.
3. The Judicial Magistrate Fast Track Court,
at Magisterial Level II, Coimbatore.
4. Do Through Chief Judicial Magistrate,
Coimbatore.

Copy To

The Section Officer,
Criminal Section,
High Court, Madras-104.

+1cc to Mr.Jerome Pushparaj, Advocate, S.R.No.68119

Cr1.R.C.Nos.390 and 391 of 2013
and
M.P.Nos.13162 and 13163 of 2018

CP(CO)
CS/28/08/2019