



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.R.C.(MD) No.27 of 2018

M.Raju ... Petitioner / Accused

vs.

B.S.Dhanraj ... Respondent / Complainant

PRAYER: Criminal revision filed, under Sections 397 and 401 of Cr.P.C., to call for the records from the Lower Courts and set aside the Judgment of the Appellate Court passed by the Learned Additional District and Sessions Judge, Theni at Periyakulam in Criminal Appeal No.20 of 2013 dated 22.06.2016, modifying the Judgment in C.C.No.297 of 2006 dated 12.03.2013 on the file of the learned Judicial Magistrate, Periyakulam, Theni District.

For Petitioner : Mr.R.Shankar Ganesh

For Respondent : Mr.Sivanesan

O R D E R

For the sake of convenience, the petitioner and the respondent herein are referred to as "the accused" and "the complainant" respectively in this order.

2.The complainant initiated proceedings in C.C.No.297 of 2006 before the learned Judicial Magistrate, Periyakulam, Theni District under Section 138 of the Negotiable Instruments Act against the accused, in which, by judgment dated 12.03.2013, the trial Court convicted him under Section 138 of the Negotiable Instruments Act and sentenced him to undergo one year simple imprisonment and to pay a fine of Rs.5,000/- and in default to undergo 3 months simple imprisonment. Challenging the conviction and sentence, the accused filed Criminal Appeal No.20 of 2013, and the learned Additional District and Sessions Judge, Theni at Periyakulam confirmed the conviction but reduced the sentence to 6 months simple imprisonment and directed him to deposit Rs.3,00,000/- as compensation and in default to undergo 3 months simple imprisonment. Challenging the order passed by the Courts below, the accused has filed the present Criminal Revision Case.



was remanded to custody for undergoing the sentence. This Court by order dated 11.01.2018, suspended the sentence and has released the accused on bail.

4. Today, M. Raju, the accused is present. The learned counsel for the accused and the learned counsel for the complainant submitted that in the mean time the parties have arrived at a compromise, under which the accused had paid Rs.1,90,000/- as full and final settlement to the complainant. The learned counsel for the complainant submitted that the complainant is 70 years old and is a resident of Bangaluru and is suffering from age related diseases and therefore, he is not present today. However, the complainant has filed an affidavit dated 09.01.2018, sworn to before a Notary Public at Bangaluru, wherein he has stated as follows:

"6. I respectfully submit that subsequently, at the instance of family members and friends from both sides we have compromised the issue and as per the compromise, I received a sum of Rs.1,90,000/- and I am not intending to proceed further against the revision petitioner on the basis of the sentence imposed by the Learned Judicial Magistrate, Periyakulam in C.C.No.297 of 2006 modified by the Learned Additional District and Sessions Judge, Theni at Periyakulam in C.A.No.20 of 2013.

7. I respectfully submit that I have no objection to condone the delay occurred in preferring the present Criminal Revision and also to grant Bail to the revision petitioner and further also to drop the entire proceedings against the revision petitioner in pursuance of sentence imposed by the Learned Judicial Magistrate, Periyakulam in C.C.No.297 of 2006 modified by the learned Additional District and Sessions Judge, Theni at Periyakulam in C.A.No.20 of 2013.

8. I respectfully submit that since I am suffering from various health issues and hence I am not in a position to move from anywhere. Hence, I am unable to appear directly before this Hon'ble Court at the time of consideration of condone delay and bail application filed by the revision petitioner.

It is therefore prayed that this Hon'ble Court may be pleased to call for the records pertaining to the judgment passed in C.A.No.20 of 2013 on the file of the Additional District and Sessions Judge, Theni at Periyakulam dated 22.06.2016 modifying the judgment in C.C.No.297 of 2006 dated 12.03.2013

on the file of the Learned Judicial Magistrate, Periyakulam and to set aside the same and pass



such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice."

5. Since the parties have compounded the offences in terms of the compromise arrived at between them, the Criminal Revision Case is allowed and the order dated 12.03.2013, made in C.C.No.297 of 2006 by the learned Judicial Magistrate, Periyakulam and the order dated 22.06.2016, made in Criminal Appeal No.20 of 2013 by the Additional District and Sessions Judge, Theni at Periyakulam are hereby set aside and the accused is acquitted of the charges. The affidavit of the respondent/complainant dated 09.01.2018, shall form part of the order.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

Herewith enclosed the xerox copy of the affidavit of the respondent dated 09.01.2018.

To:

1. The Additional District and Sessions Judge,
Theni at Periyakulam.
2. The Judicial Magistrate,
Periyakulam.

Copy to:

The Section Officer
Criminal Section,
Madurai Bench of Madras High Court,
Madurai (2 copies).

Cr1.R.C.(MD) No.27 of 2018

sj

AM/GT/SAR 4/05.03.2018/3P/5C