



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.10.2018

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Cr1.R.C.(MD).No.353 of 2018

1. Mariammal
2. Paulraj

... Petitioners

Vs.

1. C.Rose
2. The State of Tamil Nadu
represented by the Public Prosecutor,
Nagercoil.

... Respondents

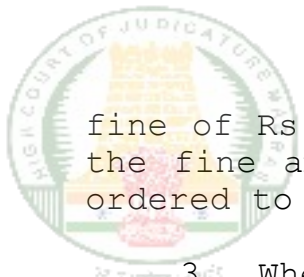
Prayer: The Criminal Revision Petition is filed under Sections 397 and 401 of Cr.P.C., against the order dated 27.02.2018 in C.A.No.108 of 2005 passed by the learned Sessions Judge, Kanyakumari at Nagercoil, which confirm the judgment of the learned Judicial Magistrate Court No.III, Nagercoil in C.C.No.195 of 2002, dated 16.03.2005.

For Petitioners	: Mr.C.Kishore
For R1	: Mr.M.Ganagurunathan

O R D E R

This Criminal Revision Petition is directed against the conviction of the accused in C.C.No.195 of 2002 as confirmed by the appellate Court in C.A.No.108 of 2005.

2. The facts of the case in nutshell is that the revision petitioners herein are husband and wife. They jointly borrowed a sum of Rs.1,00,000/- from the complainant and issued a cheque dated 25.05.2000, drawn at Central Bank of India, Nagercoil Branch in the account maintained by them. The said cheque was returned for 'insufficient funds', when it was presented. Hence, statutory notice was issued. Due to failure of paying the cheque amount, private complaint under Section 138 of Negotiable Instruments Act was filed. While the complainant contended that the cheque was issued to discharge the loan borrowed by the revision petitioners jointly, the same was contested by the accused on the ground that the cheque was not issued for any legally enforceable debt. The cheque was signed in blank and given to the complainant only as a security, which has been misused by the complainant. Both the Courts however did not accept the explanation given by the accused through statutory presumption against them, found them guilty, convicted both the petitioners/accused to undergo one year Rigorous Imprisonment with



fine of Rs.2,500/-, in default 3 months Simple Imprisonment. Out of the fine amount of Rs.5,000/-, compensation of Rs.3,000/- was also ordered to be paid to the complainant.

3. When the matter came up for admission and pending for disposal, the learned counsel appearing for the petitioners as well as the respondents have arrived at compromise. Pursuant to the order passed by this Court, dated 29.06.2018, the revision petitioners have deposited a sum of Rs.50,000/- in the credit of C.C.No.195 of 2002, on 13.07.2018. Subsequently, another Rs.50,000/- has been deposited by the revision petitioners on 08.10.2018. A Memo to that effect is also filed in this Court today along with the receipt.

4. The learned counsel for the revision petitioners would submit that the parties are ready to compromise the dispute and compound the offence. Total sum of Rs.1,00,000/- deposited in the C.C. Account, pursuant to the direction of this Court, by orders dated 29.06.2018 and 27.09.2018, may be permitted to be withdrawn by the complainant. The same being equivalent to the cheque amount, they may not be prosecuted further.

5. The learned counsel for the first respondent would submit that if the Court permits the first respondent to withdraw the money which stands in the account of the C.C.No.195 of 2002, he is ready to settle the issue.

6. In the light of the above fact, this Court is of the view that there is no necessity to prolong the dispute any further. Recording the compromise entered between the parties, the offence is compounded and the conviction is set aside. The respondent/complainant is permitted to withdraw the sum of Rs.1,00,000/- which is deposited by the accused persons towards full satisfaction of the cheque amount. Accordingly, the Criminal Revision Petition is disposed of.

Sd/-
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-I)

To

1. The Public Prosecutor,
State of Tamil Nadu,
Nagercoil.

2. The Sessions Judge,
Kanyakumari at
Nagercoil.



3. The Judicial Magistrate Court No.III,
Nagercoil.

+1cc to Mr.C.Kishore, Advocate Sr.No.90053

+1cc to Mr.M.Ganagurunathan, Advocate Sr.No.90244

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