

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 12.09.2018

PRONOUNCED ON : 25.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

CRL.R.C.No.603 of 2011

B.Murali .. Petitioner / Accused

-vs-

S.Bhaskar .. Respondent / Complainant

PRAYER: Criminal Revision Case filed under Sections 397 r/w 401 Cr.P.C., praying to call for the records pertaining to the order of the lower appellate Court, viz., the Principal District and Sessions Court, Thiruvallur, dated 18.04.2011 and made in C.A.No.70 of 2010 confirming the conviction under Section 138 of Negotiable Instruments Act, 1881 and modifying the sentence of 1 year simple imprisonment imposed by the Judicial Magistrate No.II, Thiruvallur, dated 29.06.2010 and made in C.C.No.323 of 2005 in to that of 3 months simple imprisonment and set aside the same.

For Petitioner : Mr.J.Nagarajan

For Respondent : No appearance

ORDER

Convicted accused is the appellant herein. This criminal revision is filed against the order of conviction under Section 138 of N.I. Act and the sentence of three months simple imprisonment made in C.A.No.70 of 2010, dated 18.04.2011 by the Principal District and Sessions Court, Tiruvallur, while confirming the order of conviction under Section 138 of N.I. Act and modifying the sentence of one year simple imprisonment imposed by the Judicial Magistrate No.II, Thiruvallur, dated 29.06.2010 made in C.C.No.323 of 2005.

2. Heard the learned counsel for the petitioner.

3. The respondent is the private complainant. He filed C.C.No.323 of 2005 before the learned Judicial Magistrate No.II, Thiruvallur for the alleged offence under Section 138 of N.I. Act, alleging that the revision petitioner/accused approached the complainant/respondent for hand loan of Rs.6,00,000/- (Rupees six lakhs only) on 20.01.2005 and after receipt of that amount he has given a cheque dated 24.01.2005 and when it was presented for collection, the same was bounced. After issuing legal notice, a complaint has been filed and taken on file as C.C.No.323 of 2005. To prove the charges the complainant examined PW.1 and PW.2 and marked Ex.P1 to Ex.P9.

4. On behalf of the respondent, the accused was examined as DW.1. Before pronouncing orders, by way of installment, the accused has paid rupees one lakh to the complainant. However, taking into consideration of oral and documentary evidence, the Magistrate laid the conviction and ordered for simple imprisonment of one year and also ordered Rs.5 lakhs as the compensation. Aggrieved over the said order, the convicted accused preferred the criminal appeal in C.A.No.70 of 2010. Pending appeal, a compromise has been arrived between the parties and a total amount of Rs.1,75,000/- was agreed as a settled amount and the balance amount had already paid on various dates during the pendency of the proceedings before the trial Court. Accordingly, the parties have filed a compromise memo before the Sessions Court and prayed for compounding the offence. It appears that the learned Sessions Judge has dismissed the petitioner and confirmed the conviction and reduced the sentence from one year Rigorous Imprisonment to three months Rigorous Imprisonment and hence this revision.

5. After going through the memo filed before the learned Sessions Judge, the certified copy filed in the typeset and also taking note of the earlier amount of deposit one year before the Magistrate Court as observed in the judgment itself, it is seen that the entire amount has been paid between the parties and compromise seems to have been entered between the parties and instead of the cheque amount, settled amount has been received on various dates. The same has been received by the private complainant is evidential of the memo of compromise.

6. I am of the considered view that in the interest of justice the proceedings has to be compounded. Accordingly, the judgment of conviction and sentence passed in C.C.No.323 of 2005 as modified in C.A.No.70 of 2010 is set aside and the offence is compounded in view of the memo of compromise filed by both the parties before the learned Principal District Judge, Thiruvallur.

7. Hence, this Criminal Revision is allowed. The order of conviction and sentence passed by the trial Court and modified by the lower appellate Court is set aside. Fine amount paid, if any, is ordered to be returned. Bail bond, if any executed by the accused shall stand cancelled.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

PJL

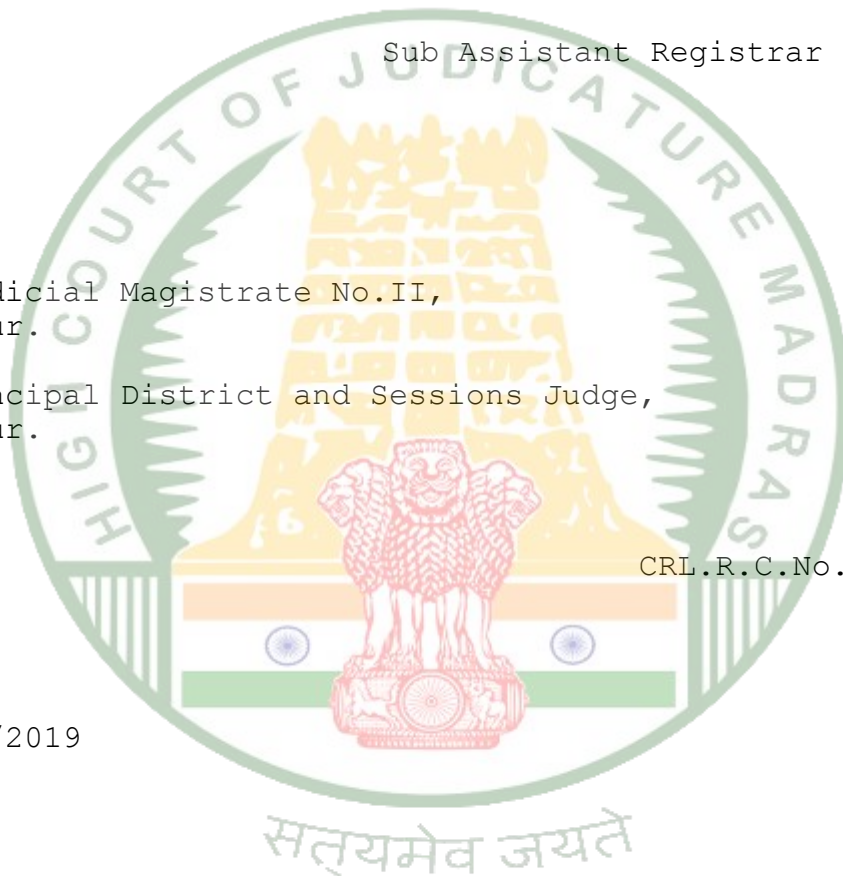
To

1. The Judicial Magistrate No.II,
Thiruvallur.

2.The Principal District and Sessions Judge,
Thiruvallur.

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