

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2019

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Cr1.R.C.No.1389 of 2012

G.Pratap

..Petitioner/Appellant
Single Accused

Vs.

L.Iyyappan

.. Respondent/ Respondent/
Complainant

Criminal Revision filed under Section 397 r/w 401 Cr.P.C., to set aside the judgment and order dated 15.11.2012 passed in S.T.C.No.35 of 2011 on the file of the Judicial Magistrate Court (Fast Track Court No.I), Erode, confirmed by the judgment and order dated 02.11.2012 passed in C.A.No.153 of 2011 on the file of the II Additional District and Sessions Court, Erode.

For Petitioner : Mr.Ayyappan
for Mr.M.Guruprasad

For Respondent : Mr.K.Nagarajan
for Mr.V.Rajamohan

O R D E R

This criminal revision has been filed seeking to set aside the judgment and order dated 15.11.2012 passed in S.T.C.No.35 of 2011 on the file of the Judicial Magistrate Court (Fast Track Court No.I), Erode, confirmed by the judgment and order dated 02.11.2012 passed in C.A.No.153 of 2011 on the file of the II Additional District and Sessions Court, Erode.

2. For the sake of convenience, the petitioner and the respondent will be referred to as accused and complainant, respectively.

3. It is the case of the complainant that the accused had borrowed a sum of Rs.1,55,000/-; towards the debt, the accused gave a cheque (Ex-P1) dated 13.03.2010 for a sum of Rs.1,55,000/- drawn on ICICI Bank, Erode Branch, which was dishonoured when presented; therefore, the complainant initiated a prosecution in S.T.C.No.35 of 2011 before the Judicial Magistrate (Fast Track Court No.I), Erode, for the offence under Section 138 of the NI Act, 1881 (for brevity "the NI Act"), against the accused.

4. The trial Court, by judgment and order dated 15.11.2012 in S.T.C.No.35 of 2011, convicted the accused of the offence under Section 138, ibid. and sentenced him to undergo three months simple imprisonment and to pay a fine of Rs.1,000/-, in default to undergo one month simple imprisonment.

5. The appeal in C.A.No.153 of 2011 filed by the accused was dismissed by the II Additional District and Sessions Court, Erode, on 02.11.2012.

6. Challenging the concurrent findings of fact arrived at by the Courts below, the accused has preferred the present revision invoking Section 397 r/w 401 Cr.P.C.

7. Heard Mr.Ayyappan, learned counsel representing Mr.M.Guruprasad, learned counsel on record for the accused and Mr.K.Nagarajan, learned counsel representing Mr.V.Rajamohan, learned counsel on record for the complainant.

8. When the matter was taken up for hearing, the learned counsel for the accused and the complainant submitted that the parties have arrived at a compromise and prayed for compounding of the offence under Section 147 of the NI Act. They have also filed a joint memorandum of compromise dated 17.12.2019, wherein, it is stated as follows:

"Both the parties agreed to the following terms:

1. The petitioner/accused has to pay a sum of Rs.1,05,000/- (One Lakh and Five Thousand Only) to the respondent/complainant.

2. The respondent/complainant has accepted to receive a sum of Rs.1,05,000/- (One Lakh and Five Thousand Only) as full and final settlement.

3. The petitioner has deposited a sum of Rs.50,000/- (Fifty Thousand Only) before the learned Judicial Magistrate (Fast Track Court No.I), Erode, on 12.12.2012 vide receipt no.051002. The petitioner has no objection to hand over the said amount to the respondent/complainant.

4. The petitioner is paying the balance sum of Rs.55,000/- (Fifty Five Thousand) by way of demand draft drawn in the name of the complainant L.Iyyappan. The demand draft was drawn in the City Union Bank, Selaiyur Branch vide number "506827" dated 16.12.2019.

5. Both the parties agree that there is no claim against each of them.

6. That this compromise, agreement between the petitioner and respondent is being executed voluntarily, on their own, with proper legal counseling and with mutual consent without any fear, pressure, force, fraud and undue influence.

Hence, both the parties pray before this Court to accept the joint compromise memorandum in CrI.R.C.No.1389 of 2012 and pass such further order or orders as this Court deems fit and proper in the circumstances of the case."

9. The demand draft for a sum of Rs.55,000/- has been handed over to Mr.K.Nagarajan, learned counsel representing Mr.V.Rajamohan, learned counsel on record for the complainant in the open Court.

10. In such perspective of the matter, the offence under Section 138 of the NI Act is compounded under Section 147, ibid. and the accused is acquitted of the said charge. The bail bond executed by the accused shall stand cancelled. Fine amount, if any, paid by the accused shall be refunded. The trial Court is directed to disburse the sum of Rs.50,000/- that has already been deposited by the accused to the complainant, without notice to the accused, but, on proper identification by the counsel along with proof of identity.

In fine, this criminal revision is allowed by setting aside the judgment and order dated 15.11.2012 passed in S.T.C.No.35 of 2011 on the file of the Judicial Magistrate Court (Fast Track Court No.I), Erode, confirmed by the judgment and order dated 02.11.2012 passed in C.A.No.153 of 2011 on the file of the II Additional District and Sessions Court, Erode.

Sd/-

Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

To

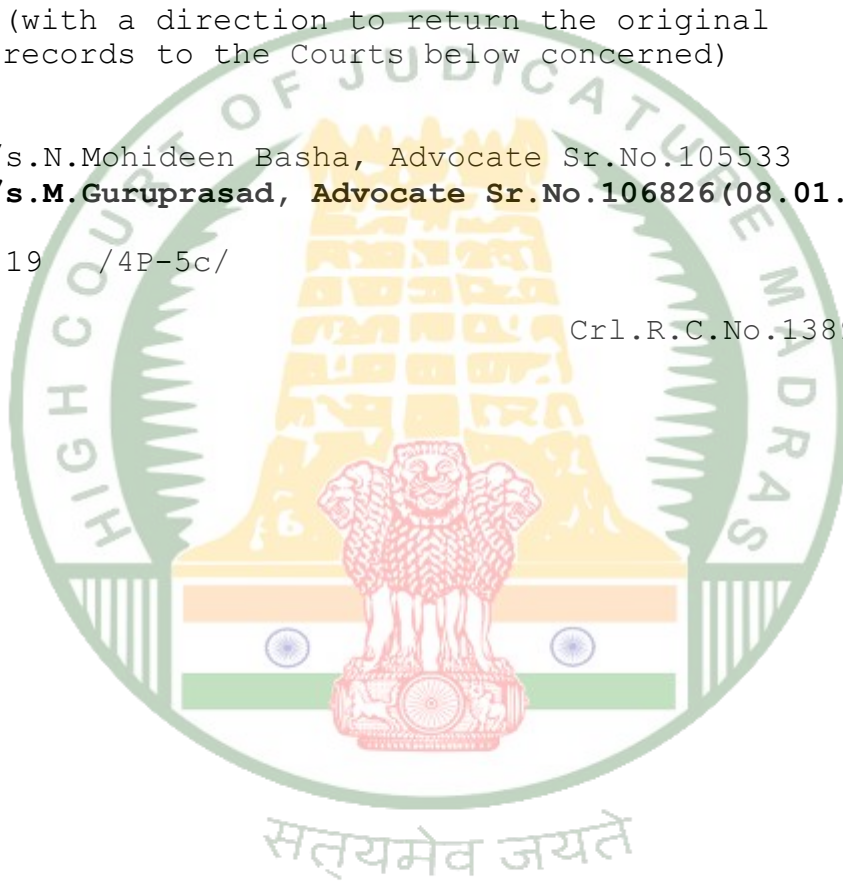
1. The Judicial Magistrate,
(Fast Track Court No.I),
Erode.
2. The II Additional District
and Sessions Judge,
Erode.

Copy to : The Deputy Registrar (Crl.Side),
Madras High Court, Chennai -104.
(with a direction to return the original
records to the Courts below concerned)

+1cc to M/s.N.Mohideen Basha, Advocate Sr.No.105533
+1cc to M/s.M.Guruprasad, Advocate Sr.No.106826(08.01.2020)

AKM/20.12.19 /4P-5c/

Crl.R.C.No.1389 of 2012



WEB COPY