

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2019

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.R.C.No.392 of 2019
and Crl.M.P.Nos.6103 & 6105 of 2019

G.Panneerselvam ... Petitioner/Accused

Vs.

P.Surali Narayanasamy ... Respondent/Complainant

Criminal Revision filed under Section 397 r/w 401 Cr.P.C., to set aside the judgment and order dated 11.03.2016 passed in C.C.No.10809 of 2008 on the file of the Metropolitan Magistrate Court No.III (Fast Track Court), Saidapet, Chennai, confirmed by the judgment and order dated 20.12.2018 passed in C.A.No.86 of 2016 on the file of the III Additional Sessions Court, Chennai.

For Petitioner : Mr.V.Jayaprakash

For Respondent : Mr.Balagurusamy

O R D E R

This petition has been filed seeking to set aside the judgment and order dated 11.03.2016 passed in C.C.No.10809 of 2008 on the file of the Metropolitan Magistrate Court No.III (Fast Track Court), Saidapet, Chennai, confirmed by the judgment and order dated 20.12.2018 passed in C.A.No.86 of 2016 on the file of the III Additional Sessions Court, Chennai.

2. On 22.07.2019, this Court passed the following order:

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

2.It is the case of the complainant that, the accused had borrowed a total sum of Rs.77,62,000/- agreeing to return the amount with interest, but had failed to pay

any interest thereon; the accused gave two cheques for Rs.10 lakhs and Rs.15 lakhs respectively, towards interest of which, the cheque for Rs.10 lakhs was honoured and the cheque for Rs.15 lakhs was dishonoured; after issuing a statutory demand notice, he initiated a prosecution in C.C.No.10809 of 2008 before the Metropolitan Magistrate, FTC No.III, Saidapet under Section 138 of the Negotiable Instruments Act, 1881, against the accused, in which, the trial Court by judgment and order dated 11.03.2016, convicted the accused and sentenced him to undergo six months rigorous imprisonment and directed him to pay the cheque amount as compensation. Challenging the trial Court order, the accused filed C.A.No.86 of 2016 before the Court of Session and prayed for suspension of sentence and bail. At the time of granting suspension of sentence and bail in Crl.M.P.No.4783 of 2016 on 01.04.2016, the Sessions Court had directed the accused to deposit Rs.1.5 lakhs before the trial Court. According to the accused, the said sum has been deposited before the trial Court vide receipt No.49573 dated 20.04.2016. However, the appeal in C.A.No.86 of 2016 was dismissed by the III Additional Sessions Court, Chennai on 20.12.2018. Challenging the conviction and sentence, the accused has filed the present revision petition.

3.When the matter was taken up for hearing, learned counsel for the accused submitted that the parties have arrived at a settlement qua the impugned cheque. Today, the complainant (Surali Narayanaswamy) and the accused (Panneerselvam) are present before this Court with their respective counsel. They have filed individual affidavits dated 22.06.2019, wherein, it is stated that towards the impugned cheque of Rs.15 lakhs, they have agreed to settle the matter at Rs.8 lakhs. The accused (Panneerselvam) has handed over two demand drafts drawn in favour of the complainant (Surali Narayanaswamy), the details of which are as under :

Sl.No	D.D.No. and date	Drawee Bank	Amount of D.D.
1.	265409 12.07.2019	- Karur Vysya Bank	Rs.4,50,000/-
2.	293451 21.06.2019	- Karur Vysya Bank	Rs.1,50,000/-

The sum of Rs.1,50,000/- that has been deposited by the accused (Panneerselvam) before the trial Court vide receipt No.49573 dated 20.04.2016 shall be disbursed to Surali Narayanaswamy (complainant).

4.This Court directs the learned Metropolitan Magistrate, FTC No.III, Saidapet to disburse the amount of Rs.1,50,000/- to the complainant (Surali Narayanaswamy). The accused (Panneerselvam) shall co-operate with the complainant (Surali Narayanasamy) in getting the amount from the trial Court.

5.The above compromise is without prejudice to the claim of the complainant (Surali Narayanaswamy) in the civil suit that has been filed for recovery of money against the accused (Panneerselvam).

6.For payment of the balance amount of Rs.50,000/-, post the matter on 01.08.2019."

3. On 01.08.2019, this Court passed the following order:

"Today, P.Surali Narayanasamy, the complainant and G.Panneerselvam, the accused are present before this Court.

2. Pursuant to the settlement arrived at between them, today, G.Panneerselvam, handed over a sum of Rs.50,000/- by cash to P.Surali Narayanasamy in the open Court. Now, the balance sum of Rs.1,50,000/-, which has been deposited by G.Panneerselvam before the trial Court vide receipt No.49573 dated 20.04.2016 requires to be disbursed to P.Surali Narayanasamy.

3. The learned counsel appearing for the complainant and the accused submitted that when they filed an application before the trial Court, they were informed that the records are not available in the trial Court.

4. The Trial Court records should possibly be on the file of the III Additional Judge, City Civil Court, Chennai, or in the Registry of this Court. Hence, the Deputy Registrar (Criminal Section), High Court, Madras, is directed to enquire into and ensure that the records in C.C.No.10809 of 2008 are sent to the Metropolitan Magistrate, Fast Track Court No.III, Saidapet, Chennai, immediately.

Post the matter on 14.08.2019 under the caption "For Reporting Compliance."

4. Today, when the matter was taken up for hearing, the learned counsel for P.Surali Narayanasamy/complainant, submitted that the payment out petition filed by the complainant before the Metropolitan Magistrate Court No.III (Fast Track Court), Saidapet, Chennai, has been ordered on 20.08.2019. He further submitted that the cheque will be disbursed within a week to the complainant.

In view of the above, this criminal revision petition is allowed. The judgment and order dated 11.03.2016 passed in C.C.No.10809 of 2008 on the file of the Metropolitan Magistrate Court No.III (Fast Track Court), Saidapet, Chennai, confirmed by the judgment and order dated 20.12.2018 passed in C.A.No.86 of 2016 on the file of the III Additional Sessions Court, Chennai, are hereby set aside and the accused is acquitted of the charge under Section 138 of the Negotiable Instruments Act. Connected Crl.M.Ps. are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Metropolitan Magistrate No.III,
(Fast Track Court), Saidapet, Chennai.
2. -Do- Thro The Chief Metropolitan Magistrate,
Egmore, Chennai.
3. The III Additional Sessions Judge,
Chennai.
4. The Deputy Registrar, (Criminal Section)
Madras High Court,
Chennai.

+lcc to Mr.V.Jayaprakash, Advocate Sr.76043

Cr1.R.C.No.392 of 2019

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srg 28/09/2019