

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.NO.385 OF 2019

AND

CRL.M.P.NOS.5609, 5734 AND 5735 OF 2019

Crl.M.P.No.5609 of 2019

Mohammed Mamu NynarPetitioner/Accused

Vs.

M/s.OHM Hill Voice,
Proprietor - B.Sumathi
Represented by Power of Attorney
T.S.Bhaskaran, No.51, Rajeswari Nagar,
Second Street, Porur,
Chennai. ...Respondent/Complainant

Prayer in Crl.M.P.No.5609 of 2019:

The Criminal Miscellaneous Petition filed under Section 147 of Negotiable Instruments Act, to accept the compounding of the offence under Section 138 of Negotiable Instruments Act, in Crl.RC.SR.No.15895 of 2019 and release the petitioner/Appellant/Accused.

Crl.R.C.No.385 of 2019 सत्यमेव जयते

Mohammed Mamu Nynar

...
Petitioner

Vs.

M/s.OHM Hill Voice,
Proprietor - B.Sumathi
Represented by Power of Attorney
T.S.Bhaskaran, No.51, Rajeswari Nagar,
Second Street, Porur,
Chennai.

...Respondent

Prayer in CrI.R.C.No.385 of 2019:

The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure, to call for the records in C.A.No.20 of 2016 on the file of the learned Additional District and Sessions Judge, FTC, Kancheepuram to examine the correctness, legality or propriety on the findings, sentence passed against the petitioner and revise the same and the petitioner may be acquitted.

For Petitioner : Mr.T.Thangamani

For Respondent : Mr.D.Bharathy

O R D E R

The above Criminal Revision has been filed to call for the records in C.A.No.20 of 2016 on the file of the learned Additional District and Sessions Judge, FTC, Kancheepuram.

2. The petitioner is the accused and the respondent is the complainant. The case of the respondent is that the petitioner/accused purchased food articles from the respondent and has to pay a sum of Rs.29,178/- For payment, the petitioner issued a cheque to the above said amount and the same was dishonored.

3. The respondent/complainant filed a private complaint against the revision petitioner/accused under Section 200 Cr.P.C., for the offence under Section 138 of Negotiable Instruments Act before the learned District Munsif cum Judicial Magistrate, Sriperumbudur, which was taken on file in S.T.C.No.16 of 2016. After full fledged trial, the learned Judge found the accused guilty and convicted him for the offence under Section 138 of Negotiable Instruments Act and sentenced him to undergo simple imprisonment for a period of three months and to pay a fine of Rs.29,178/- as compensation to the respondent.

4. Aggrieved against the order dated 14.11.2016, passed by the learned District Munsif cum Judicial Magistrate, the petitioner had preferred an appeal before the learned Additional Sessions Judge, Fast Track Court, Kancheepuram. The learned Sessions Judge had taken the case on file in C.A.No.20 of 2016 and the same was dismissed, by confirming the conviction and sentence passed by the learned District Munsif cum Judicial Magistrate, Sriperumbudur in S.T.C.No.16 of 2016, dated 14.11.2016. As against the said judgment dated 28.08.2018, the petitioner/accused has filed the present revision before this Court.

5. Today, when the matter is taken up for hearing, the learned counsel for the petitioner as well as the learned counsel for the respondent informed that a settlement has been reached between the parties. The parties have filed a petition in CrI.M.P.No.5610 of 2019 for compounding the offence. Since the revision petitioner is in judicial custody, he is unable to appear before this Court in person. However, the petitioner filed a memo of compromise dated 22.03.2019 and signed before the Jailor, Central Prison, Vellore. Hence, the learned counsel for the petitioner prays this Court to set aside the conviction rendered by the learned Additional Sessions Judge, Fast Track Court, Kancheepuram in C.A.No.20 of 2016 dated 28.08.2018.

6. Heard the learned counsel for the petitioner as well as the learned counsel for the respondent and perused the materials available on record.

7. Taking into account the fact that the petitioner and the respondent had filed a compounding petition before this Court and the offence under Section 138 of Negotiable Instruments Act is compoundable offence. This Court is inclined to allow the petition in CrI.M.P.No.5609 of 2019 and compounded the offence. Consequently, this Criminal Revision Case shall stand allowed by setting aside the judgment made in C.A.No.20 of 2016 dated 28.08.2018 passed by the learned Additional Sessions Judge, Fast Track Court, Kancheepuram. As per Section 320(8) Cr.P.C., the petitioner/accused shall stand acquitted from the charges levelled against him. Consequently, the connected miscellaneous petitions are also closed. The memo of compromise dated 22.03.2019 signed by both the learned counsel and parties shall form part of the order.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rli

To

1. The District Munisif cum Judicial Magistrate,
Sriperumbudur.
2. The Additional District and Sessions Judge,
FTC, Kancheepuram.

3. The Superintendent Central Prison,
Vellore.

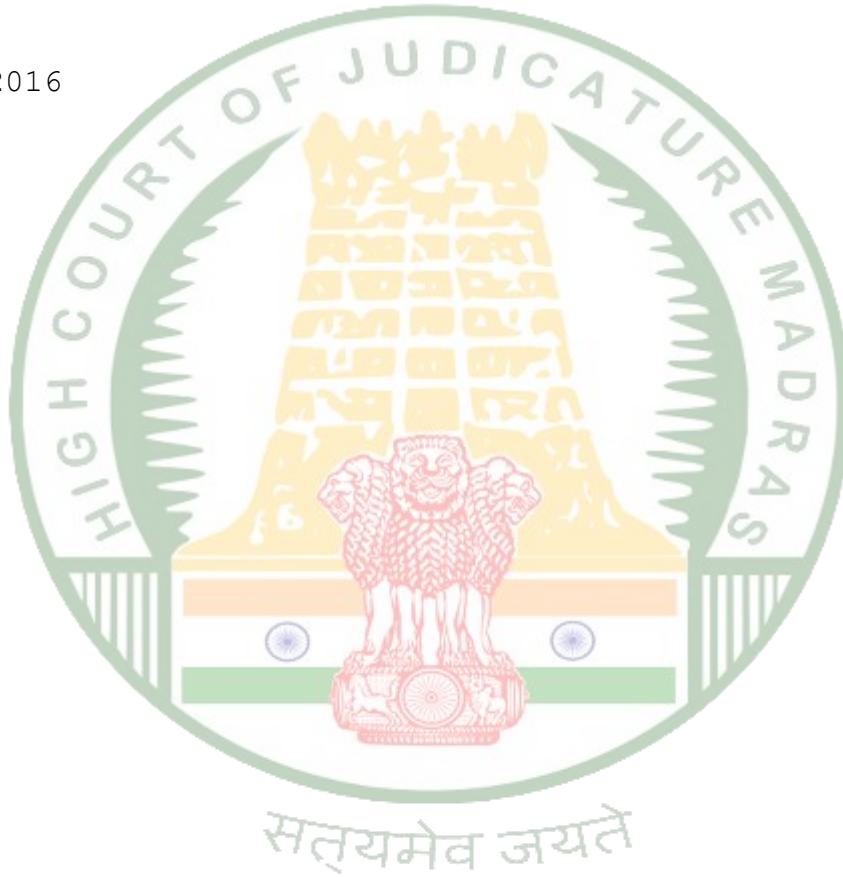
4. The Public Prosecutor,
Chennai.

+2cc to Mr.S.Ezhil Raj, Advocate, S.R.No.39707

CrI.R.C.No.385 of 2019
and

CrI.M.P.Nos.5609, 5734 and 5735 of 2019

kan(co)
cs/26/04/2016



WEB COPY