

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2019

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Crl.MP.No.8029 of 2019

in

Crl.A.No.574 of 2014

S.Kasiviswanathan

Son of Shanmugam Pillai

... Petitioner/Accused

-Vs-

M.Aruchamy

Son of Late Muthusamy Gounder

... Respondent/Complainant

Criminal Miscellaneous Petition filed under Section 482 of Cr.P.C. r/w Section 147 of the Negotiable Instruments Act, to enlarge the time to pay the amount of Rs.3,40,000/- to compromise the matter in paying the amount in Crl.A.No.574 of 2014.

Prayer in CRL A No.574 of 2014:-

Petition filed under Section 378 of the Code of Criminal Procedure against the judgment dated 01.07.2014 made in C.A.No.27 of 2014 on the file of the V Additional District and Sessions Judge, Coimbatore reversing the judgment dated 07.02.2014 made in S.T.C.No.271 of 2012 on the file of the Judicial Magistrate, Fast Track Court at Magisterial Level-II, Coimbatore.

For Petitioner : Mr.C.Deivasigamani

For Respondent : Mr.B.R.Shankaralingam

ORDER

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

2. The complainant initiated a prosecution in STC.No.271/2012 before the Judicial Magistrate, Fast Track Court, Magisterial Level-II, Coimbatore, under Section 138 of the Negotiable Instruments Act, against the accused, in which, the accused was convicted and sentenced by the Trial Court. Challenging the conviction and sentence, the accused filed an appeal in Crl.A.No.27 of 2014 before the Sessions Court, in which, the learned V Additional District and Sessions Judge,

Coimbatore, acquitted the accused on 01.07.2014. Challenging the acquittal of the accused, the complainant filed CrI.A.No.574 of 2014 under Section 378 Cr.P.C. After hearing both sides, this Court allowed CrI.A.No.574 of 2014 on 19.12.2017 and issued the following directions:

"16. In such view of the matter, the acquittal of the accused by the Sessions Court deserves interference and accordingly, the appeal is allowed and the judgment of the trial Court in STC No.271 of 2012 on the file of the Judicial Magistrate, Fast Track Court at Magisterial Level - II, Coimbatore, is restored.

Since the prosecution under Section 138 of the N.I. Act is quasi civil in nature, the Parliament has thought it fit to permit compounding of the offence under Section 147 of the N.I. Act. Instead of sending the accused to prison, this Court is of the view that if the accused deposits Rs.2,40,000/- towards the cheque amount and another sum of Rs.1 lakh as compensation and costs to the credit of STC No.271 of 2012, before the Judicial Magistrate, Fast Track Court at Magisterial Level - II, Coimbatore, on or before 28.02.2018, the Magistrate shall disburse the amount to the complainant if he is alive or to his legal heirs and compound the offence. If the amount of Rs.3,40,000/- is not deposited on or before 28.02.2018, the trial Court shall issue warrant of commitment for the accused to undergo the sentence imposed upon him by judgment dated 07.02.2014 in STC No.271 of 2012."

3. Since the accused did not deposit a sum of Rs.3,40,000/- on or before 28.02.2018, the Trial Court issued warrant of commitment, pursuant to which, the accused was arrested on 14.06.2019 and is now, undergoing sentence of imprisonment in the Central Prison, Coimbatore. While that being so, the accused has moved the present miscellaneous petition under Section 482 of Cr.P.C., r/w Section 147 of the Negotiable Instruments Act, for compounding the offence by coming forward to pay the sum of Rs.3,40,000/- to the complainant.

4. Heard Mr.C.Deivasigamani, learned counsel for the accused and Mr.B.R.Shankaralingam, learned counsel for the complainant.

5. Mr.C.Deivasigamani, learned counsel for the accused handed over a demand draft bearing No.090780 dated 21.06.2019 drawn in the Tamil Nadu Mercantile Bank Ltd., Chennai, in favour of the complainant for the sum of Rs.3,40,000/- (Rupees Three Lakhs and Forty Thousand Only) to Mr.B.R.Shankaralingam, learned counsel for the complainant.

6. Mr.B.R.Shankaralingam, learned counsel for the complainant submitted that he got instructions from his client to compound the offence in the event of the amount being paid.

7. In view of the above, this Criminal Miscellaneous Petition is allowed and the conviction and sentence imposed by this Court in CrI.A.No.574 of 2014 dated 19.12.2017 is hereby set aside and the accused is directed to be released from the custody, if not required in any other case.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The V Additional District and Sessions Judge,
Coimbatore.
2. The Judicial Magistrate,
Fast Track Court at Magisterial Level - II,
Coimbatore.
3. The Superintendent,
Central Prison, Coimbatore.

+1 cc to Mr.C.Deivasigamani, Advocate SR.No.52533

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CrI.MP.No.8029 of 2019
in
CrI.A.No.574 of 2014

PM(CO)
CSL/26.06.2019