

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 22.11.2019

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.RC.No.685 of 2019

S.Sakthivel .. Petitioner/accused

Vs

K.Senthilkumar .. Respondent/complainant

Prayer: The Criminal Revision Petition has been filed under sections 397 and 401 of Cr.P.C, to set aside the judgment, dated 05.02.2019, made in Crl.A.No.165/2018, on the file of the I Additional District and Sessions Judge, Erode and confirming the judgment dated 02.03.2018, made in S.T.C.No.151/2017, by the learned Judicial Magistrate, Fast Track Court No.1, Erode.

For Petitioner : Mr.M.Mariappan

For Respondent : Mr.Arun Prasad
for Mr.M.Guru Prasad

ORDER

- 1.This Criminal Revision Petition has been filed by the petitioner/accused, seeking to set aside the judgment, dated 05.02.2019, made in Crl.A.No.165/2018, on the file of the I Additional District and Sessions Judge, Erode, confirming the judgment dated 02.03.2018, made in S.T.C.No.151/2017, by the learned Judicial Magistrate, Fast Track Court No.1, Erode.
- 2.Heard the learned counsel for the petitioner and the learned counsel appearing for the respondent and also perused the materials on record.
- 3.The learned counsel for the petitioner would submit that the petitioner was convicted in S.T.C.No.151/2017, by the learned Judicial Magistrate, Fast Track Court No.1, Erode, on

02.03.2018, for the offence under Section 138 of the Negotiable Instrument Act, 1881 and sentenced to undergo Six Months Simple Imprisonment and to pay an amount of Rs.95,000/- to the complainant as compensation, in default, to undergo One Month Simple Imprisonment. As against the said order of conviction and sentence, the petitioner has preferred an appeal before the I Additional District and Sessions Judge, Erode in CrI.A.No.165/2018 and the said conviction and sentence had been confirmed by the Lower Appellate Court, by judgment dated 05.02.2019. Pursuant to the same, the petitioner has been taken into custody on 24.06.2019. Thereafter, the petitioner had filed a criminal revision before this Court and this Court was pleased to grant suspension of sentence on 15.07.2019 on condition to deposit an amount of Rs.50,000/-, before the Trial Court however, since the petitioner was unable to raise funds, he is in prison from 24.06.2019.

- 4.The learned counsel for the petitioner would further submit that the petitioner has almost suffered five months imprisonment and with the help of the relatives, he has raised some funds and he has paid the entire fine amount of Rs.95,000/- which was directed by the Trial Court, to be paid as compensation to the complainant. The complainant has also accepted the same.
- 5.The respondent/complainant has filed a petition in CrI.M.P.No.17246/2019 in CrI.R.C.No.685/2019, seeking to grant permission to compound the offence in CrI.R.C.No.685/2019.
- 6.The learned counsel appearing for the respondent/complainant Mr.Arun Prasad representing Mr.M.Guru Prasad, learned counsel for the respondent/complainant would submit that the revision petitioner is in prison however, the entire fine amount has been settled to him and that the respondent/complainant has no objection in the matter being compounded.
- 7.I have gone through the orders passed by the Courts below.
- 8.In view of the compounding application filed by the petitioner and further, that the petitioner has suffered incarceration for almost five months in prison as against the sentence of imprisonment for a period of six months, I am inclined to accept the compounding application.
- 9.In view of the above, the criminal revision petition is allowed and the order passed by the learned Judicial Magistrate, Fast Track Court No.1, Erode, dated 02.03.2018, made in S.T.C.No.151/2017, confirming the judgment dated

05.02.2019, made in CrI.A.No.165/2018, by the I Additional District and Sessions Judge, Erode are set aside and bail bond executed by the petitioner shall stand cancelled and fine amount if any paid shall be returned to the petitioner/accused. The petitioner shall be released from prison if not wanted in any other case.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To:

1. The I Additional District and Sessions Judge, Erode.
2. The Judicial Magistrate, Fast Track Court No.1, Erode.
3. The Additional Superintendent, (I/C),
Central Prison, Coimbatore.
4. The Public Prosecutor,
High Court, Madras.
5. The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to Mr.M.Mariappan, Advocate sr.97509

+1cc to Mr.M.Guru Prasad, Advocate sr.98534(28/11/2019)

CrI.RC.No.685 of 2019

rsv(co)
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