

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2019

CORAM:

THE HONOURABLE Mr.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.920 of 2019
and
Crl.M.P.No.13777 of 2019

Manoj Kumar ..Petitioner/Appellant/Accused
Vs.

M/s.Thejas Textile Printing,
Rep. by its Partner,
Rajasekar,
M/36 Years,
S/o.Marasamy,
R.S.No.88/2, Karugiparaivalasu,
Villarasampatti post,
Erode-638 011. ..Respondent/Respondent/complainant

Criminal Revision filed under Section 397 r/w 401 Cr.P.C.,
to set aside the judgment passed in C.A.No.62 of 2019 on the
file of Principal District and Sessions Court, Erode dated
06.07.2019 confirming the conviction and sentence passed by the
Learned Judicial Magistrate (Fast Track Court No.1), Erode in
S.T.C.No.154 of 2018 dated 30.01.2019.

For Petitioner : Mr.S.Kaithamalai Kumaran
For Respondent : Mr.D.Kanagasundaram

O R D E R

This criminal revision has been filed, as against the
judgment passed in C.A.No.62 of 2019, on the file of Principal
District and Sessions Court, Erode dated 06.07.2019, confirming
the judgment of conviction and sentence passed by the Learned
Judicial Magistrate (Fast Track Court No.1), Erode, in
S.T.C.No.154 of 2018, dated 30.01.2019, the accused was found
guilty for the offence under Section 138 of the Negotiable
Instrument Act, 1881 and he was convicted and sentenced to
undergo one year simple imprisonment and to pay the cheque
amount of Rs.11,34,265/- as compensation, in default to undergo
two months simple imprisonment.

2.The case of the prosecution is that the complainant is doing textile printing business and the accused is also in the same trade by using manual method. Since the accused required fabric to be printed through machines, he approached the complainant. The work entrusted by the accused for printing was worth Rs.14,34,265/- inclusive of taxes. The accused had made a payment of Rs.3,00,000/- by way of R.T.G.S, dated 12.09.2017 to the complainant's Karur Vysya Bank account. The amount due payable by the accused was Rs.11,34,265/-. For the due amount, a post dated cheque dated 25.01.2018 drawn on IndusInd Bank, Erode branch was issued by the accused to the complainant for a sum of Rs.11,34,265/- on 10.01.2018. The said cheque was presented for collection by the complainant on 25.01.2018 through Karur Vysya Bank, Veerappanchatram Branch, Erode. The said cheque was returned as "Funds insufficient" on 29.01.2018. Thereafter, the statutory notice was issued by the complainant to the accused dated 16.02.2018, calling upon the accused to repay the due within 15 days from the date of receipt of notice, which was duly received by the accused on 20.02.2018. The accused has not settled the amount.

3. Hence, the respondent/complainant had filed a private complaint against the petitioner/accused under Section 200 of Criminal Procedure Code, before the learned Judicial Magistrate Fast Track Court No.1, Erode, for the offence under Section 138 of the Negotiable Instruments Act. Thereafter, the Judicial Magistrate Fast Track Court No.1, Erode, had taken the complaint on file, in S.T.C.No.54 of 2018. After trial proceedings, the learned Judicial Magistrate Fast Track Court No.1, had convicted the accused for the offence under Section 138 of the Negotiable Instrument Act and sentenced him to undergo one year Simple Imprisonment and to pay the cheque amount of Rs.11,34,265/- as compensation, in default to undergo further period of two months. As against the said order the petitioner/accused filed an appeal before the learned Principal District and Sessions Court, Erode, in C.A.No.62 of 2019. After hearing the appeal, the learned Principal District and Sessions Court, Erode dismissed the appeal. As against the Judgment of dismissal the petitioner/accused filed the present Criminal Revision Case before this Court.

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

5.When the matter is called, both the learned counsel for the petitioner as well as the respondent informed that a settlement has been arrived at between the parties. Both the

parties have entered into a Memorandum of Understanding, based on which the complainant has agreed to receive a sum of Rs.5,00,000/- (Rupees five Lakhs only) as full and final settlement from the accused/petitioner.

6.Crl.M.P.No.13777 of 2019 has been filed by the petitioner/accused, informing that the matter has been compromised between him and the respondent/complainant and hereby seeking this Court to allow the revision and set aside the judgment dated 06.07.2019 in Criminal Appeal No.62 of 2019 by the learned Principal District and Sessions Court, Erode, confirming the judgment of conviction dated 30.01.2019 in S.T.C.No.154 of 2018 by the learned Judicial Magistrate (Fast Track Court No.1), Erode.

7.Taking into consideration the affidavit filed by the petitioner/accused and the petition to compound the offence stands allowed, this Court records compounding of offence under Section 138 of the Negotiable Instrument Act.

8.This Criminal Revision Case shall stand allowed, by setting aside the Judgment of conviction and sentence passed in C.A.No.62 of 2019 on the file of Principal District and Sessions Court, Erode dated 06.07.2019 and the conviction and sentence passed by the Learned Judicial Magistrate (Fast Track Court No.1), Erode in S.T.C.No.154 of 2018 dated 30.01.2019. As per Section 320(8) Cr.P.C., and 147 of the Negotiable Instrument Act, the petitioner/accused shall stand acquitted of the said charge against him. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Principal District and Sessions Judge, Erode.
- 2.The Judicial Magistrate (Fast Track Court No.1), Erode.
3. -Do-Thro' The Chief Judicial Magistrate, Erode.

+2cc to M/s.S.Kaithamalaikumaran, Advocate Sr.No.82625

AKM/28.11.19/3P-6C /

Crl.R.C.No.920 of 2019