

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1581 of 2017

and

Crl.M.P.No.2875 of 2019

M. Somasundaram

... Petitioner

Vs.

A. Subramanian

... Respondent

The Criminal Revision filed under Section 397 read with 401 of Code of Criminal Procedure, to set aside the conviction and sentence imposed on the petitioner by the learned II Additional Sessions Judge, Erode in C.A.No.108 of 2017 dated 16.11.2017 confirming the Judgment passed by the learned Judicial Magistrate, Fast Track Court No.I, Erode in S.T.C.No.22 of 2016 dated 06.04.2017.

For Petitioner : Mr.C.S.Saravanan

For Respondent : Mr.S.Kolandasamy

O R D E R

The above Criminal Revision has been filed to set aside the conviction and sentence imposed on the petitioner by the learned II Additional Sessions Judge, Erode in C.A.No.108 of 2017, dated 16.11.2017, confirming the Judgment passed by the learned Judicial Magistrate, Fast Track Court No.I, Erode in S.T.C.No.22 of 2016 dated 06.04.2017.

2. The case of the respondent is that the petitioner/accused has borrowed a sum of Rs.3,00,000/- on 03.10.2014 from the respondent/complainant for his urgent need and promised to pay the same within a short time. On the same day, he issued a post dated cheque for Rs.3,00,000/- bearing No.497382 dated 03.11.2014. When the cheque was presented for encashment, it was returned with an endorsement as 'insufficient funds'. Subsequently, the respondent issued a legal notice on 18.11.2014

and the same was received by the petitioner on 20.11.2014. The petitioner neither repaid the amount nor given any reply to the said notice. The complainant/respondent 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 Judicial Magistrate, Fast Track Court-I, Erode, which was taken on file in S.T.C.No.22 of 2016. After fulfilled trial, the learned Magistrate found the accused guilty and convicted and sentenced him to undergo simple imprisonment for a period of six months and to pay a fine of Rs.3,00,000/- as compensation to the respondent, in default, to undergo simple imprisonment for one month. Aggrieved against the order of the learned Magistrate, the petitioner had preferred an appeal before the learned II Additional Sessions Judge, Erode. The learned Sessions Judge had taken a case on file in C.A.No.108 of 2017 and the same was dismissed by confirming the conviction and sentence passed by the learned Magistrate, FTC-I, Erode in S.T.C.No.22 of 2016, dated 06.04.2017. As against the said judgment, the petitioner/accused has filed the present revision before this Court.

3. Today, when the matter is taken up for hearing, the learned counsel for the petitioner as well as the respondent informed that a settlement has been reached between the parties. The petitioner has filed a petition in CrI.M.P.No.2875 of 2019 informing that the matter has been compromised between the petitioner and the respondent. 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 12.02.2019 and signed before the Additional Superintendent of Police, Central Prison, Coimbatore. Hence, the learned counsel for the petitioner prays this Court to set aside the conviction rendered by the learned Judicial Magistrate, FTC-I, Erode in S.T.C.No.22 of 2016, dated 06.04.2017.

4. Heard the learned counsel for the petitioner and the learned counsel for the respondent as well as the complainant/respondent in person.

5. Taking into consideration the affidavit filed by the petitioner/accused and the petition to compound the offence moved by him, this Court records compounding of offence under Section 138 of the Negotiable Instrument Act. This Criminal Revision Case shall stand allowed and the offence under Section 138 of Negotiable Instruments Act tried in S.T.C.No.22 of 2016, dated 06.04.2017, on the file of the Judicial Magistrate, FTC-I, Erode, shall stand compounded. According to Section 320(8) Cr.P.C., the petitioner/accused shall stand acquitted from the charges levelled against him. Fine amount, if any, paid by the petitioner shall be refunded to him. Consequently, connected

miscellaneous petition is closed. The memo of compromise dated 12.02.2019 signed by both the learned counsel and parties shall form part of the order.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

(ENCL: XEROX COPY OF JOINT COMPROMISE MEMO)

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To

1. The II Additional Sessions Judge, Erode.
2. do through The Principal Sessions Judge, Erode.
3. The Judicial Magistrate,
Fast Track Court No.I, Erode.
4. do through The Chief Judicial Magistrate,
Erode.
5. The Superintendent, Central Prison,
Coimbatore (Instructed to release the accused)

+1 cc to Mr.C.S.Saravanan, Advocate Sr.No.17178

सत्यमेव जयते

Cr1.R.C.No.1581 of 2017
and
Cr1.M.P.No.2875 of 2019

CSL/27.02.2019

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