

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.07.2019

CORAM

THE HON'BLE Mr. JUSTICE P.N. PRAKASH

Crl.R.C.No.279 of 2017

S.Somasundaram  
Proprietor, Jayalakshmi Textiles  
73-A 1, New No.18 Krishnapuram  
Somanur  
Coimbatore

Petitioner/Accused

Vs.

V. Kovalan

Respondent/Complainant

Criminal Revision filed under Section 397 read with Section 401 Cr.P.C. seeking to set aside the judgment and order dated 21.11.2016 passed in Crl.A. No.15 of 2016 on the file of the V Additional District and Sessions Judge, Coimbatore partly confirming the judgment and order dated 19.01.2016 in C.C. No.451 of 2012 on the file of the Judicial Magistrate (Fast Track Court No.I), Coimbatore.

For petitioner                      Mr. J. Franklin

For respondent                    Mrs. S.K.Jayachandran

O R D E R

This criminal revision has been filed seeking to set aside the judgment and order dated 21.11.2016 passed in Crl.A.No.15 of 2016 on the file of the V Additional District and Sessions Judge, Coimbatore, partly confirming the judgment and order dated 19.01.2016 in C.C. No.451 of 2012 on the file of the Judicial Magistrate (Fast Track Court No.I), Coimbatore.

2.For the sake of convenience, the petitioner and the respondent are referred to as the accused and complainant respectively.

3.It is the case of the complainant that the accused had borrowed a sum of Rs.2 lakhs from him on 10.05.2011 and in

discharge of the said liability, issued two post dated cheques for Rs.1 lakh each, which, when presented by the complainant, were returned unpaid. After issuing a statutory notice under Section 138 of the Negotiable Instruments Act, 1881, the complainant filed C.C. No.451 of 2012 before the Judicial Magistrate (Fast Track Court No.I), Coimbatore, against the accused. The Trial Court convicted the accused in C.C. No.451 of 2012 on 19.01.2016 and sentenced him to undergo 8 months simple imprisonment and pay a fine of Rs.4,000/-, in default to undergo one month simple imprisonment. Challenging the conviction and sentence, the accused preferred Crl.A. No.15 of 2016, which was dismissed by the V Additional District and Sessions Court, Coimbatore on 21.11.2016. This revision petition has been filed challenging the judgments and orders passed by the Trial Court and the Appellate Court.

4.During the pendency of this revision petition, the parties have arrived at a compromise. Today, Kovalan, the complainant and Somasundaram, the accused are present with their respective counsel. The accused and the complainant have filed a memo of compromise dated 09.07.2019, wherein, it is stated as follows:

"4.The petitioner states that during the pendency of the above criminal revision, on negotiation with the help of neighbours and well wishers, both the petitioner and the respondent amicably settled the issue and came to a compromise.

5.As per the said terms of compromise between the petitioner and the complainant, the complainant agreed to receive the cheque amount of Rs.2 lakhs (Rupees two lakhs only) by way of demand draft and accordingly, today, the petitioner is paying the said amount of Rs.2,00,000/- (Rupees Two Lakhs only) bearing D.D. No.937114 dated 17.06.2019 drawn on Tamil Nadu Mercantile Bank, Coimbatore drawn in favour of the respondent/complainant towards full and final settlement of the subject matter of the cheque.

6.The petitioner therefore prays that this Hon'ble Court may be pleased to record this Memo of Compromise and compound the offence as ordered by the Trial Court and confirmed by the appellant. In view of the compounding of offence, the petitioner may be

permitted to withdraw the fine amount of Rs.4,000/- deposited by the petitioner before the Trial Court and thus render justice."

The demand draft for Rs.2 lakhs was handed over to the complainant in the open Court.

5.In view of the above, the offence stands compounded under Section 147 of the Negotiable Instruments Act. Consequently, the judgments and orders passed by the Trial Court and the Appellate Court are set aside and the accused is acquitted of the said charge and the fine paid, if any, may be refunded.

In the result, this criminal revision is allowed.

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. Do Through The Principal Sessions Judge, Coimbatore
3. The Judicial Magistrate (Fast Track Court No.I)  
Coimbatore
4. Do Through The Chief Judicial Magistrate, Coimbatore.
5. The Public Prosecutor  
High Court of Madras  
Chennai 600 104

+1cc to Mr.J. Franklin, Advocate SR.No.57719

CrI.R.C. No.279 of 2017

CA(CO)

GMV(23/09/2019)