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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 28.06.2019

CORAM

THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Crl.R.C(MD)No.179 of 2019
and
CMP MP(MD)Nos.2731 and 2732 of 2019

M.Krishnan : Revision Petitioner/
Appellant/Sole Accused

Vs.

1.D.Ravichandran
2.The Public Prosecutor,
Palani : Respondents/Respondents/
Complainant

Prayer: Criminal Revision Petition has been filed under Section 397 r/w 401 of Criminal Procedure Code, against the judgment passed by the Additional District and Sessions Judge, Palani, in Crl.A.No.2 of 2017, dated 11.06.2018, confirming the conviction and sentence passed by the Fast Track Court (Magisterial Level), Palani, in STC No.16 of 2014, dated 03.12.2016, sentencing the petitioner to undergo six months simple Imprisonment and to direct to pay Rs.7,00,000/- as compensation i/e two month S.I for the offence under section 138 of Negotiable Instuments Act.

For Revision Petitioner : Mr.A.K.Manickam

For 1st Respondent : Mr.S.Sadeskumar

For 2nd Respondent : Mr.APG Ohm Chairma Prabhu
Government Advocate
(Criminal side)

J U D G M E N T

This criminal revision is directed against the judgment passed by the Additional District and Sessions Judge, Palani, in Crl.A.No.2 of 2017, dated 11.06.2018, confirming the conviction and sentence passed by the Fast Track Court (Magisterial Level), Palani, in STC No.16 of 2014, dated 03.12.2016.

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2.**The factual matrix of the case leading to the filing of**

the present revision petition are as under:-

The complainant and the accused are known each other and the accused approached the complainant on 20.11.2013 and he borrowed a sum of Rs.7,00,000/- from the complainant for his urgent family expenses and promised to repay the same on demand and to discharge the said debt, the accused had issued a post-dated cheque bearing registration No.000012, dated 31.12.2013 drawn in KVB, Chennai Branch for Rs.7,00,000/- and on presentation of the same through IDBI Bank, Palani Branch on 31.12.2013 for collection, the same was returned as "Insufficient Funds". Thereafter, a legal notice was issued on 28.01.2014 by the complainant and on receipt of the same on 31.01.2014, the accused had not turned up to paid any amount. Hence, a complaint under Section 138 of the Negotiable Instruments Act (in short "The Act") was filed.

3.The accused was summoned. Notice under Section 251 Cr.P.C was served upon the accused to which she pleaded not guilty and claimed trial. After completing trial, vide order, dated 03.12.2016, learned Judicial Magistrate/Fast Track Court (Magisterial Level), Palani, convicted the accused and sentenced him to undergo 6 months simple imprisonment and directed to pay Rs.7,00,000/- towards compensation of the entire cheque amount, in default to undergo two months SI. Feeling aggrieved by the said order, appeal was preferred before the Additional District and Sessions Judge, Palani, which was also dismissed on 11.06.2018 confirming the order of the trial court. Aggrieved over the same, the present criminal revision has been filed.

4.On 26.06.2019, when the matter is taken up for hearing, both the petitioner/accused and the 1st respondent/complainant appeared before this court along with their respective counsel and a joint compromise memo has also been filed by both the parties stating that the matter has been settled between the parties amicably. The joint compromise memo filed by the parties dated 26.03.2019 would run thus:-

> *"5.It is submitted that the cheque amount involved in this case is Rs.7,00,000/- (Rs. Seven Lakhs only). The petitioner deposited a sum of Rs.1,00,000/- Rs.One lakh only) on the file of the Fast Track Court (Magisterial Level), Palani. The respondent herein received the balance amount of Rs.6,00,000/- (Rs.Six lakhs only) by cash from the petitioner and agreed to withdraw the deposit amount of Rs.1,00,000/- from the Fast Track Court (Magisterial Level), Palani. The petitioner has no objection for the said withdrawal by the respondent/complainant. In the above said terms, the respondent/complainant herein agreed to compound the offence contemplated under Section*

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147 of the Negotiable Instruments Act.

6.It is submitted that both parties will act accordingly to the memo of compromise entered above under any circumstance."

5.In view of the above facts and also considering the fact that both the parties/petitioner and the 1st respondent are not interested in pursuing the criminal case due to the compromise entered between them and the petitioner has no objection to withdraw the amount by the 1st respondent, which was lying to the credit of the trial court, no purpose will be achieved in keeping the case pending.

6.Keeping in view of the above fact, since offence under Section 138 of the Act can be compounded at any stage of the proceedings and now, the matter has been amicably settled between the parties, the parties are allowed to compound the offence and the revision petitioner be acquitted of the charges convicted against him and the compensation awarded by the trial court is set aside.

7.The revision petition is accordingly **disposed of** in terms of settlement arrived at between the parties. The copy of the joint compromise memo, dated 26.03.2019 shall form part of the order. The 1st respondent/complainant is permitted to withdraw the entire amount together with accrued interest, which was deposited by the revision petitioner to the credit of STC No.16 of 2014 on the file of the Judicial Magistrate/Fast Track Court (Magisterial Level), Palani. Consequently, connected CMPs are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To,

1. The Judicial Magistrate/Fast Track Court
   (Magisterial Level), Palani

2. The Additional District and Sessions Judge,
   Palani.

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3. The Additional Public Prosecutor,
   Madurai Bench of Madras High Court, Madurai.

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4. The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

+1 CC to M/s.A.K.MANICKAM, Advocate (SR-72189[F] dated 28/06/2019

Judgment made in
Crl.R.C(MD)No.179 of 2019
28.06.2019

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AE/ (23.07.2019) 4P 7C

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