



BAIL SLIP

Mohamed Asharaf, Chairman and managing Partner is released on bail vide the order dated 17.09.2014 made in MP(MD)No.1 of 2014 in CRL.R.C(MD)No.261 of 2014.

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2019

CORAM

THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLICrl.R.C(MD)No.261 of 2014

Mohameed Asharaf,
Chairman and Managing Partner,
Crescent Trading Company,
Kalladaikurichi,
Ambasamudram,
Tirunelveli.

: Revision Petitioner/
Appellant/Respondent
Vs.

K.Balasubramanian

: Respondent/Respondent/
Complainant

Prayer: Criminal Revision Petition has been filed under Section 397 r/w 401 of Criminal Procedure Code, against the judgment, dated 21.04.2014 made in Crl.A.No.17 of 2013 on the file of the Additional District and Sessions Judge, Dindigul, confirming the judgment, dated 06.02.2013 made in C.C.No.70 of 2011 on the file of the Fast Track Judicial Magistrate Court, Palani.

For Revision Petitioner : Mr.T.Antony Arul Raj

For Respondent : Mr.P.Athimoola Pandian

J U D G M E N T

This criminal revision is directed against the judgment, dated 21.04.2014 made in Crl.A.No.17 of 2013 on the file of the Additional District and Sessions Judge, Dindigul, confirming the judgment, dated 06.02.2013 made in C.C.No.70 of 2011 on the file of the Fast Track Judicial Magistrate Court, Palani.

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 friends and the accused is acting as a Chairman & Managing Partner of Crescent Trading Company and the accused has borrowed a sum of Rs.6,00,000/- from the complainant on 15.09.2003 for his business expenses and for repayment of the above said amount the accused had issued a post-dated cheque bearing No.359930, dated 15.12.2003 drawn in favour of the complainant on IDBI Bank, Avinashi Road, Coimbatore and on presentation through ICICI Bank, Palani Branch for collection on 15.12.2003, the same was returned as "Account Closed". Thereafter, a legal notice was issued and on 02.01.2004, but there was returned on 19.01.2004 as "NOT CLAIMED". 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 he pleaded not guilty and claimed trial. After completing trial, vide order, dated 06.02.2013, learned Fast Track Judicial Magistrate, Palani, convicted the accused and sentenced him to undergo three months simple imprisonment and compensation of the entire cheque amount of Rs.6,00,000/-. Feeling aggrieved by the order, appeal was preferred before the Additional District and Sessions Judge, Dindigul, which was also dismissed on 21.04.2014. Aggrieved over the same, the present criminal revision has been filed.

4.When the matter is taken up for hearing on 02.04.2019, the revision petitioner and the respondent/de-facto complainant along with their counsel appeared in person. They have already filed a Joint Memorandum of compromise, dated 01.04.2019 stating that the dispute between the parties has already been compromised.

5.The Joint Compromise Memo, dated 01.04.2019 reads as follows:-

"3.Now both the parties have settled the matter amicably outside the court. Both the parties/petitioner and the respondent are not interested in pursuing the criminal case due to the compromise entered between them. The petitioner has no objection to withdraw the amount by the respondent. The petitioner has given consent to withdraw the amount of Rs.6,00,000/- (Rupees Six Lakhs only) which was deposited by him before the Learned Fast Track Judicial Magistrate Court, Palani.

4.The respondent has also agreed to withdraw the said amount by filing appropriate application before the trial court. The petitioner has no objection for the withdrawal of the amount of Rs.6,00,000/- (Rupees Six Lakhs only) by the respondent. The petitioner will make "No Objection Endorsement" for the said withdrawal petition.



5.The respondent has agreed to compound the offence under Section 138 of Negotiable Instruments Act. He has no objection to acquit the petitioner by compounding the offence.

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6.Since the matter is settled amicably between the petitioner as well as the respondent, there is no further claim between the parties in this regard and no party is entitled to initiate any civil or criminal proceedings with regard to the cheque bearing No.359930 dated 15.12.2003 drawn in favour of the respondent on IDBI Bank, Avinashi Road, Coimbatore Branch.

7.The amount of Rs.6,00,000/- (Rupees Six Lakhs only) is a full and final settlement. Based on the above terms and condition both the parties agreed to compromise the matter and they are ready to appear before this Hon'ble Court so as to give their consent.

8.Therefore based on the compromise, the respondent has no objection in allowing the above revision petition and to acquit the petitioner.

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 lower appellate court is set aside.

7.The revision petition is accordingly **disposed of** in terms of settlement arrived at between the parties. The Joint Compromise Memo, dated 01.04.2019 shall form part of the order. The respondent/complainant is permitted to withdraw the amount of Rs.6,00,000/- together with accrued interest, which was deposited by the revision petitioner to the credit of C.C.No.17 of 2011 on the file of the Fast Track Judicial Magistrate, Palani.

Sd/-

Assistant Registrar (CO)

// True Copy //

<https://hcservices.ecourts.gov.in/hcservices/>

Sub Assistant Registrar (CS II)



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Encl: xerox copy of joint compromise memo.

To,

1.The Additional District and Sessions Judge,
Dindigul.

2.The Fast Track Judicial Magistrate Court,
Palani.

Copy to:

The Section Officer,
Criminal Section, (Records)
Madurai Bench Of Madras High Court, Madurai. 2copies

1 CC to M/s.P.ATHIMOOLAPANDIAN, Advocate (SR-58721[F] dated
03/04/2019)

+1 CC to M/s.T.ANTONY ARUL RAJ, Advocate (SR-58755[F] dated
04/04/2019)

Judgment made in
Crl.R.C (MD) No.261 of 2014
03.04.2019

DS/ /SAR- (10.04.2019) 4P 7C