



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 17.06.2019

CORAM

THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Crl.R.C(MD)No.378 of 2017
and
CMP MP(MD)No.4303 of 2019

Vinora

: Revision Petitioner/
Appellant/Sole Accused

Vs.

D.Suresh

: Respondent/Respondent/
Complainant

Prayer: Criminal Revision Petition has been filed under Section 397(1) r/w 401 of Criminal Procedure Code, against the judgment, dated 13.04.2017 made in Crl.A.No.41 of 2016 on the file of the II Additional Sessions Judge, Thoothukudi, confirming the judgment, dated 01.09.2016 made in C.C.No.491 of 2013 on the file of the Judicial Magistrate/Fast Track Court (Magisterial Level), Thoothukudi.

For Revision Petitioner : Mr.A.Thiruvadu Kumar

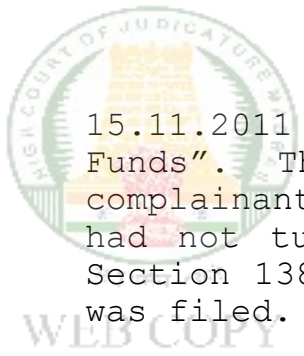
For Respondent : Mr.R.Balakrishnan

J U D G M E N T

This criminal revision is directed against the judgment, dated 13.04.2017 made in Crl.A.No.41 of 2016 on the file of the II Additional Sessions Judge, Thoothukudi, confirming the judgment, dated 01.09.2016 made in C.C.No.491 of 2013 on the file of the Judicial Magistrate/Fast Track Court (Magisterial Level), Thoothukudi.

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 with the complainant on 14.08.2001 and she borrowed a sum of Rs.2,40,000/- from the complainant as hand loan for her urgent family needs and promised to repay the same within three months and to discharge the said debt, the accused had issued a post-dated cheque bearing registration No.135646, dated 15.11.2011 drawn in ICICI Bank Limited, Tuticorin Branch, for Rs.2,40,000/- and on presentation through Allahabad Bank, Tuticorin Branch on



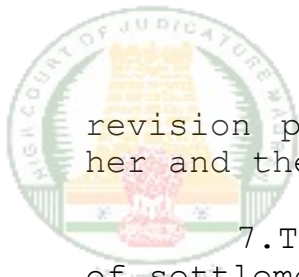
15.11.2011 for collection, the same was returned as "Insufficient Funds". Thereafter, a legal notice was issued on 21.11.2011 by the complainant and on receipt of the same on 22.11.2011, the accused had not turned up to paid any amount. Hence, a complaint under Section 138 of the Negotiable Instruments 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 01.09.2016, learned Judicial Magistrate/Fast Track Court (Magisterial Level), Thoothukudi, convicted the accused and sentenced her to undergo one year simple imprisonment and directed to pay Rs.2,40,000/- towards compensation of the entire cheque within one month, in default to undergo one month SI. Feeling aggrieved by the said order, appeal was preferred before the II Additional Sessions Judge, Thoothukudi, which was also dismissed on 13.04.2017 confirming the order of the trial court. Aggrieved over the same, the present criminal revision has been filed.

4.It is submitted by the learned counsel appearing for both sides that the matter has already been compromised before the District Legal Services Authority, Thoothukudi, in O.S.No.79 of 2014 and a joint compromise memo has also been filed both the parties stating that the matter has been settled on the condition that the defendant agreed to pay a sum of Rs.2,40,000/- to the plaintiff as full and final settlement and the defendant had no objection to the plaintiff to withdraw the amount of Rs.1,20,000/- which was deposited by the defendant in C.C.No.491 of 2013 before the Fast Track Court, Thoothukudi, as per the order passed by the Hon'ble High Court Chennai, at Madurai Bench in Cr.MP No.3631 of 2011 in CrI.RC No.378 of 2017, dated 26.04.2017. When the matter is taken up for hearing on 11.06.2019, the revision petitioner and the respondent/de-facto complainant along with their counsel appeared in person. Separate memo has been filed on both sides stating that the matter has already been settled and the learned counsel appearing for the respondent prays that the respondent may be permitted to withdraw the balance amount available to the credit of C.C.No.491 of 2013 before the trial court.

5.In view of the above facts and also considering the fact that both the parties/petitioner and the 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 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 her 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 Memo, dated 01.04.2019 shall form part of the order. The respondent/complainant is permitted to withdraw the amount of Rs.1,20,000/- together with accrued interest, which was deposited by the revision petitioner to the credit of C.C.No.491 of 2013 on the file of the Judicial Magistrate/Fast Track Court (Magisterial Level), Thoothukudi. Consequently, connected CMP is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

Enclose: Xerox Copy of Joint Compromise Memo.

To,

1. The Judicial Magistrate/Fast Track Court
(Magisterial Level), Thoothukudi
2. The II Additional Sessions Judge,
Thoothukudi.

+1 CC to M/s.A.THIRUVADI KUMAR, Advocate SR-69159.
+1 CC to M/s.R.BALAKRISHNAN, Advocate SR-69804.

**Judgment made in
Cr1.R.C(MD) No.378 of 2017
17.06.2019**

CS: (28/06/2019) 3P 5C