

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.10.2020

CORAM:

THE HONOURABLE MR. JUSTICE R. PONGIAPPAN

Crl.O.P.No.10402 of 2019

E.Ravichandran

.. Petitioner

Vs.

R.Shanmugasundaram

.. Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to compound the offence of section 138 of Negotiable Instrument Act in C.C.No.202 of 2011 on the file of the Judicial Magistrate, Fast Track Magisterial Level - II, Coimbatore (S.T.C.No.583 of 2009-JM VII, Coimbatore) under section 147 of Negotiable Instrument Act based on the Joint Compromise Deed dated 03.12.2018 entered between the petitioner and the respondent after the disposal of Crl.R.C.No.1042 of 2012.

For Petitioner: Mr.L.Mouli

O R D E R

(This case has been heard through video conferencing)

This Criminal Original Petition has been filed for recording Joint Compromise Deed dated 03.12.2018 entered between the petitioner and the respondent after the disposal of Crl.R.C.No.1042 of 2012 by this Court on 26.09.2018.

2. Heard Mr.L.Mouli, learned counsel for the petitioner.

3. The petitioner herein is the accused in STC.No.583 of 2009 on the file of the Judicial Magistrate-7, Coimbatore. The above referred case has been filed by the respondent against this petitioner alleging that the petitioner herein committed the offence under section 138 of Negotiable Instrument Act. Ultimately, after elaborate enquiry, the learned Judicial Magistrate pronounced the Judgment in which the petitioner was convicted alleging that he committed offence under section 138 of Negotiable Instrument Act. Against the said judgment, the petitioner herein preferred an appeal before learned Principal District and Sessions Court, Coimbatore in CA.No.76 of 2012 and the same has also been dismissed. Subsequent to that, Crl.R.C.No.1042 of 2012 which was filed by the petitioner has also been dismissed after confirming the conviction and

sentence passed by the Judicial Magistrate-7, Coimbatore. Only in the said circumstances, the compromise was entered between the petitioner and the respondent in which, the petitioner discharges his liability by paying the cheque amount. Only thereafter for recording the same, this Application has been filed.

4. Today when the petition is came up for hearing, learned counsel for the petitioner would submit that after entering into compromise, particularly after filing this Petition for recording the compromise made between the petitioner and the respondent, the respondent in this application has not appeared before this Court. In fact ,he refused to receive the summon issued by this Court and therefore, in the said circumstances, the petitioner wanted to withdraw this application with liberty to file a fresh application for the purpose of the same relief, immediately after the appearance of the respondent. He has also filed a memo dated 15.10.2020 to that effect. The said submission and the memo dated 15.10.2020 is recorded.

5. Now on go through the copy of the compromise deed dated 03.12.2018 entered into between the petitioner and the respondent, it seems that the respondent had received entire cheque amount and therefore, it is the duty of the respondent to appear before this Court and make arrangement for recording the same. Instead of that, he is refused to appear before this Court. Therefore, it is an appropriate case for granting permission to withdraw this petition with liberty to file a fresh application for the same relief.

6. Recording the submissions made by the learned counsel for the petitioner and the memo dated 15.10.2020 filed by him, this Criminal Original petition is dismissed as withdrawn. However, the petitioner is at liberty to file a fresh petition for the same relief as in this petition.

s/d-
सहायमेव जयते

Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

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To

1.The Judicial Magistrate
Fast Track Magisterial Level II
Coimbatore

2.The Judicial Magistrate VII
Coimbatore

+1 CC to Mr.L.Mouli, Advocate sr 34481.

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AJS (CO)
SP(11/11/2020)



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