

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.OP.No.4835 of 2021

T.Russel Raj ... Petitioner

Vs.

1. The Inspector of Police,
E-3, Teynampet Police Station,
Teynampet,
Chennai 600 018. ...1st respondent / Respondent

2. Mrs.Shoba Rao ...2nd Respondent / Accused

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the 1st respondent to secure the accused in C.A.No.972 of 2019 on the file of XVI Additional Sessions Court, Chennai against the Accused Mrs.Shoba Rao, in C.C.No.543 of 2010, pending on the file of the FTC-I,

Metropolitan Magistrate Court, Egmore (Allikulam), Chennai.

For Petitioner : Mr.C.Rajan

For Respondents : Mr.Mommahed Riyaz

Additional public prosecutor for R1

Mr.K.Prakash

for R2

ORDER

This petition has been filed seeking for a direction to the respondent police to execute the non-bailable warrant issued by the Court below while convicting the 2nd respondent for an offence under Section 138 of the Negotiable Instrument Act.

2.When the matter came up for hearing on 29.03.2021, Mr.K.Prakash, representing the accused person / 2nd respondent submitted that the 2nd respondent is willing to compromise this matter and she will settle the amount fixed by this Court. The learned counsel appearing on behalf of the 2nd respondent therefore sought for compounding the offense on settlement of the amount fixed by this Court.

3. Mr.Sathiamoorthy, learned counsel appearing on behalf of the petitioner submitted that the Appellate Court had reversed the judgement of the Trial Court and had sentenced the 2nd respondent to undergo simple imprisonment for one year and to pay a compensation which is twice the cheque amount and it works out to a sum of Rs.5,15,000/-. The learned counsel submitted that the petitioner has been prosecuting this case from the year 2010 onwards and therefore, the petitioner would leave the discretion to this Court in fixing the compensation amount payable by the 2nd respondent.

4. This Court on considering the materials available on record and also after hearing the counsel appearing on behalf of the petitioner and the 2nd respondent, thought it fit to fix the compensation amount of Rs.4,15,000/-. This Court directed the learned counsel for the 2nd respondent to take instructions and

report compliance before this Court.

5. When the matter was taken up for hearing today, the learned counsel appearing on behalf of the 2nd respondent submitted that a sum of Rs.4,15,000/- was handed over to the counsel appearing on behalf of the petitioner by way of a demand draft. The learned counsel appearing on behalf of the petitioner also acknowledged the said fact.

6. The petitioner and the 2nd respondent have also filed a joint Memo of compromise and the same is taken on file. It is stated in the compromise Memo that the petitioner has received the amount in full quit and there are no other claims against the 2nd respondent and that the offence can be compounded by this Court under Section 147 of the Negotiable Instruments Act. The relevant portion in the Memo of compromise is extracted hereunder :-

***The 1st party pays a sum of Rs.4,15,000/-
by two Demand Draft 1. D.D.No.178460 of Indian
Bank, High Court Branch, Chennai of Rs.2,50,000/-
& 2. Demand Draft No.161116 of State Bank of
India, Broadway Branch, of Rs.1,65,000/- to the
2nd party, which is acknowledged by the 2nd party
in full and final quit against all claims of any
nature against the 1st party and her husband.***

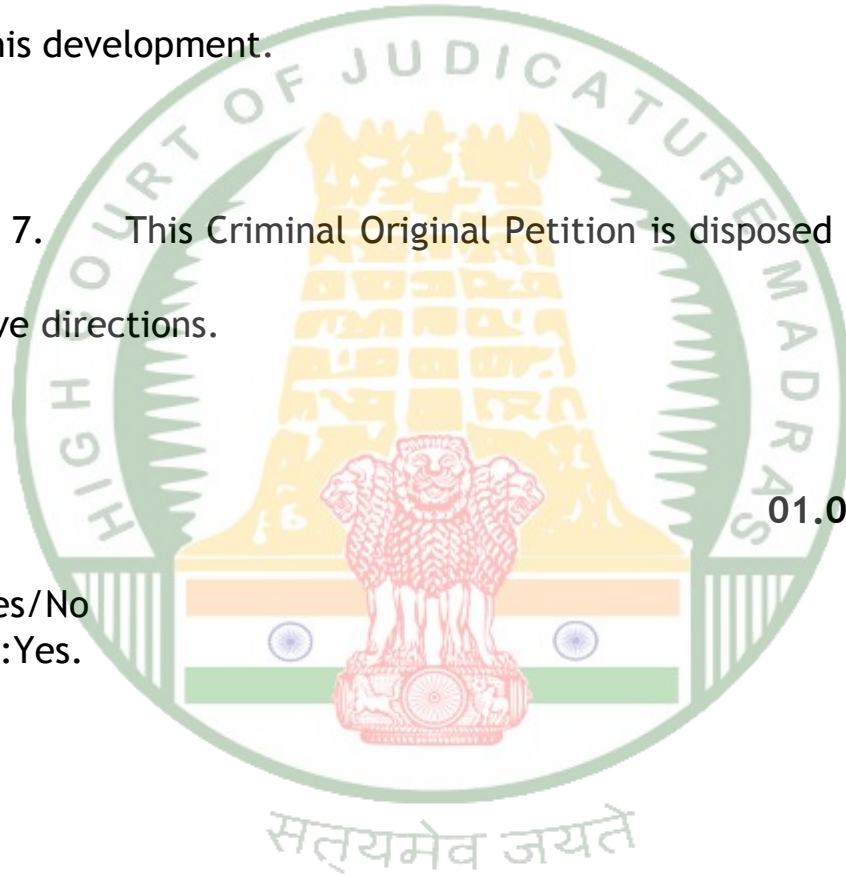
6. Taking into consideration the facts and circumstances of the case and the subsequent development that has taken place, this Court in exercise of its jurisdiction under Section 482 of Cr.PC is hereby setting aside the judgement of the XVI Additional District and Sessions Court, Chennai, made in C.A.No.97 of 2019 dated 20.12.2019 and the offence is compounded under Section 147 of the Negotiable Instruments Act, 1881. In view of the same, the non-bailable warrant issued

against the 2nd respondent shall stand withdrawn. The Memo of compromise shall form part and parcel of this order. The learned Additional Public Prosecutor shall instruct the 1st respondent about this development.

7. This Criminal Original Petition is disposed of with the above directions.

01.04.2021

Index:Yes/No
Internet:Yes.
rka



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To

1. The Additional District and Sessions Court, Chennai,
2. The Inspector of Police,
E-3, Teynampet Police Station,
Teynampet,
Chennai 600 018.
3. The Public Prosecutor,
High Court, Madras.

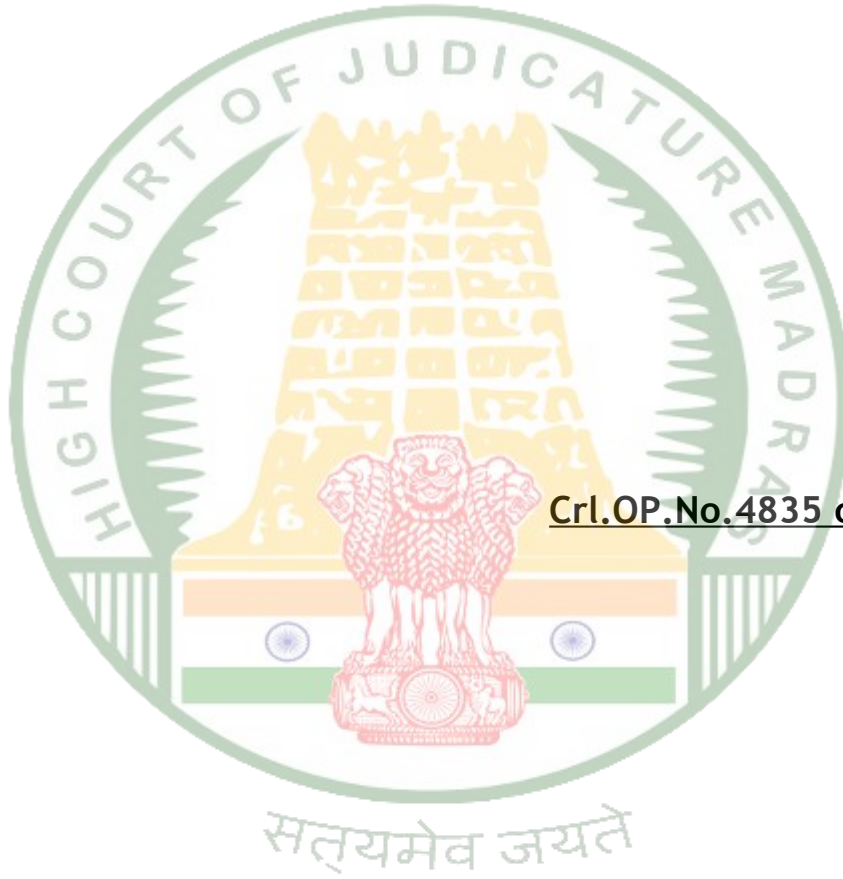


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N.ANAND VENKATESH, J.,

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