

CrI.M.P.No.1709 of 2021
in
CrI.R.C.No.1141 of 2018
A.D.JAGADISH CHANDIRA, J.

For the sake of convenience, the petitioner and the respondent will referred to as accused and complainant, respectively.

2.It is the case of the complainant that the accused had borrowed a sum of Rs.2 Lakhs on 20.04.2004, from the complainant and again he had borrowed a sum of Rs.1 Lakh on 19.07.2004, totalling a sum of Rs.3 Lakhs for his family, domestic and his business expenses and in discharge of the loan he had issued a cheque on 02.02.2005, for the said sum. When the cheque was presented for collection on 03.02.2005, it was returned with an endorsement “Account Closed”.

3.After complying with the legal requirements, the complainant initiated a prosecution in C.C.No.18048 of 2005, before the learned Metropolitan Magistrate, Fast Track Court -II, Egmore at Allikulam, Chennai – 3, under Section 138 of the Negotiable Instruments Act, 1881 (for brevity “the NI Act”) against the accused, in which, the Trial Court by

the judgment and order dated 07.09.2016, convicted the accused and sentenced to him to undergo Simple Imprisonment for term of one year and to pay a compensation for a sum of Rs.6 Lakhs to the complainant and in default of paying the fine amount to undergo 3 months simple imprisonment. Against the judgment of conviction and sentence, the accused had filed C.A.No.251 of 2016, before the learned XVIII Additional Sessions Judge, Chennai and the same was dismissed by the judgment dated 18.09.2018. Challenging the concurrent findings of both the Courts below, the accused had filed the present Criminal Revision in Crl.R.C.No.1141 of 2018, before this Court.

4.Heard Mr.R.U.Dinesh Kumar, learned counsel for the accused/respondent and Mr.A.Balasingh Ramanujam, learned counsel for the defacto complainant/petitioner.

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5.When the matter was taken up for hearing, the learned counsel appearing for both parties submitted that the parties have arrived at an amicable settlement and have decided to compound the offence under

Section 147 of the NI Act and a petition in Crl.M.P.No.1709 of 2021 in Crl.R.C.No.1141 of 2018, for compounding has been filed on 08.02.2021.

6.In support of the compounding application, the complainant had filed an affidavit dated 22.02.2021 (today) with reference in USR No.1590. The learned counsel for the respondent would submit that pursuant to the directions of this Court, vide order dated 16.02.2021, the respondent/accused has deposited an amount of Rs.15,000/- (Rupees Fifteen Thousand Only) to the credit of the Tamil Nadu State Legal Services Authority on 19.02.2021.

7.The learned counsel for the respondent/complainant would submit that an amount of Rs.60,000/- (Rupees Sixty Thousand Only) had been deposited by the petitioner/accused, before the Trial Court to the credit of C.C.No.18048 of 2005, during the criminal appeal stage. This Court while entertaining this criminal revision directed the respondent/accused to deposit a sum of Rs.2 Lakhs to the credit of C.C.No.18048 of 2005. In view of the Joint Compromise entered into

between the parties, the complainant may be permitted to withdraw the amount lying in the credit of C.C.No.18048 of 2005 on the file of the Metropolitan Magistrate, Fast Track Court – II, Egmore at Allikulam, Chennai. The learned counsel for the respondent/accused has stated no objection to withdraw the sum of Rs.2,60,000/- (Rupees Two Lakhs Sixty Thousand Only) lying in the credit of C.C.No.18048 of 2005, before the Trial Court being returned to the petitioner/defacto complainant. Further, during the course of arguments, both the learned counsel stated that out of the Court, the parties have exchanged a common Demand Draft for a sum of Rs.4,40,000/- (Rupees Four Lakhs Forty Thousand Only) at State Bank of India, Nolambur Branch, bearing No.814105, dated 02.02.2021 (for both the Criminal Revisions in Crl.R.C.Nos.1142 & 1149/2018) drawn in favour of the defacto complainant.

8.In view of the above, the offence stands compounded under Section 147 of the NI Act and the Judgment passed by the Appellate Court in Crl.A.No.251 of 2016, dated 18.09.2018 and the Judgment of the Trial Court in C.C.No.18048 of 2005, dated 07.09.2016, are hereby set aside and

the accused is acquitted from the charge levelled against him. The respondent/complainant is permitted to withdraw the entire amount lying in the credit of C.C.No.18048 of 2005 and the petitioner/accused or his counsel shall assist the learned counsel for the respondent/complainant, if necessary. Registry is directed to return back the entire case records to the Trial Court, immediately.

9.In the result, this Criminal Miscellaneous Petition stands ordered as prayed for.

22.02.2021
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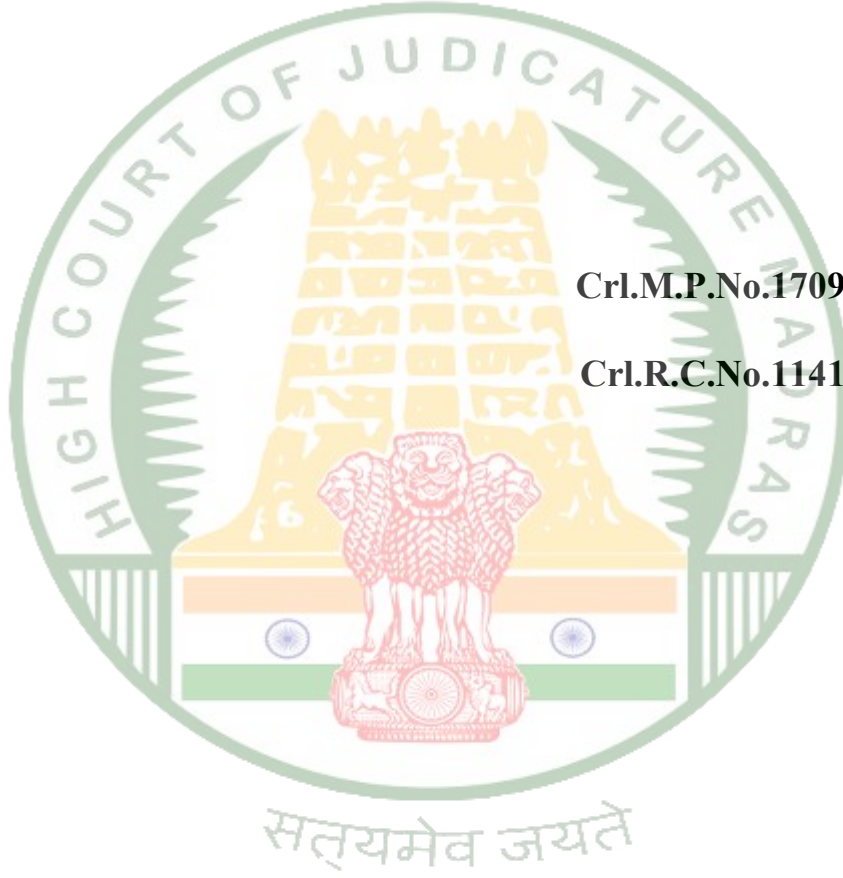
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