

Crl.M.P.No.3695 of 2021
in
Crl.R.C.No.266 of 2014

A.D.JAGADISH CHANDIRA, J.

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

2.It is the case of the complainant that the accused and the complainant are known to each other. On 02.05.2011, the accused had borrowed a sum of Rs.5 Lakhs from the complainant and issued post dated cheque dated 01.11.2011, drawn on Dhanalakshmi Bank Limited, Erode. When P.W.1 has presented the cheque for collection through his banker on 05.11.2011, the cheque was dishonoured stating reason “In Sufficient Funds”. Thereafter, the complainant had issued legal notice to the accused and the same was also received by the accused, but not repaid the amount.

3.After complying with the legal requirements, the complainant initiated a proceedings in C.C.No.54 of 2012, before the learned Judicial Magistrate, Fast Track Court (Magisterial Level-I), Erode under Section 138 of the Negotiable Instruments Act, 1881 (for brevity “the N.I.Act”) against the accused, in which, the Trial Court, by the judgment and order dated 08.04.2013, convicted the accused and sentenced her to undergo six

months simple imprisonment and to pay a fine of Rs.5,000/- in default of payment of fine, she has to undergo 30 days simple imprisonment. Aggrieved against the same, the accused had preferred the Criminal Appeal in C.A.No.34 of 2013 and the same was dismissed by the learned Principal Sessions Judge, Erode, on 06.08.2013. Challenging the concurrent findings of the Courts below, the accused has filed the Criminal Revision in Crl.R.C.No.266 of 2014, before this Court.

4.Heard Mr.K.Kannadasan for Mr.V.Balamurugane, learned counsel appearing for the petitioner and Mr.G.Pavendhan, learned counsel appearing for the first respondent and Mr.T.Shunmugarajeswaran, learned Government Advocate (Crl.Side) appearing for the second respondent.

5.When the matter was taken up for hearing, the learned counsel appearing for the both parties submitted that the both parties have arrived at an amicable settlement and prayed for compounding the offence under Section 147 of the N.I.Act. A petition in Crl.M.P.No.3695 of 2021 in Crl.R.C.No.266 of 2014 has been filed for compounding the offence.

6.In support of the compounding application, the complainant had filed a memo dated 25.01.2021 vide USR No.669 and had filed a

compromise memo under Section 147 of the N.I.Act, dated 22.02.2021, vide USR No.1600. In the compromise memo dated 22.02.2021, it is stated as follows:

*“COMPROMISE MEMO UNDER SECTION 147 OF
NEGOTIABLE INSTRUMENTS ACT*

The revision petitioner was arrayed as an accused by the respondent for an offence under Section 138 of the Negotiable Instruments Act towards the dishonoured cheque bearing No - “525244” dated 01.11.2011 drawn from Dhanalakshmi Bank Limited, Erode Branch for an amount of Rs. Five Lakhs Only (Rs.5,00,000/-). Who filed a private complaint before the Judicial Magistrate (Fast Track No.1), Erode, wherein the revision petitioner was convicted on 08.04.2013.

2.As against the said Judgment of conviction, the revision petitioner filed an appeal in Crl.A.No.34 of 2013 before the Principal Sessions Judge, Erode and the said appeal was dismissed confirming the order and sentence of the Judicial Magistrate Court (Fast Track No.1) on 08.04.2013 as against which the present revision is preferred.

3.The above revision came before this Hon'ble Court on 10.03.2024 and this Hon'ble Court was pleased to grant stay of the Judgments of the Courts below. In the meantime, after admission the revision petitioner approached the respondent / complainant for settlement. Accordingly, a settlement was arrived between us on 17.02.2015 by paying an amount of Rs.1,20,000/-. The respondent has acknowledged the receipt of the said amount by way of

executing a receipt in the prsence of a Notary Public which is enclosed along with this petition.

4.The offence u/s 138 of the Negotiable Instrument Act is compoundable which is also upheld by the Supreme Court reporter in the case of M/s Meters and Instruments Private Limited and Anr reported in 2018 (1) SCC 560. Therefore, it is humbly prayed before this Court to compound the offence committed by the revision petitioner and close all proceedings and discharge the revision petitioner from all charges and thus render justice.

Therefore, it is humbly prayed before this Hon'ble Court may be pleased to accept the compromise memo and discharge the revision petitioner from all charges in C.C.No.54/2012 confirmed in Crl.A.No.34/2013 and pass such other orders as this Hon'ble Court may deem fit and necessary in the circumstances of the case and thus render justice."

7.In view of the above, the offence stands compounded under Section 147 of the N.I.Act and the Judgment and order passed by the Appellate Court in Crl.A.No.34 of 2013 dated 06.08.2013 and the Trial Court in C.C.No.54 of 2012 dated 08.04.2013 are hereby set aside and the accused is acquitted from the charge levelled against her. Fine amount if any, paid by the accused shall be refunded. Bail Bond if any executed shall stand cancelled. The Registry is directed to transmit the original records if any,

8.In the result, this Criminal Miscellaneous petition stands ordered as
prayed for.

24.03.2021
(1/2)

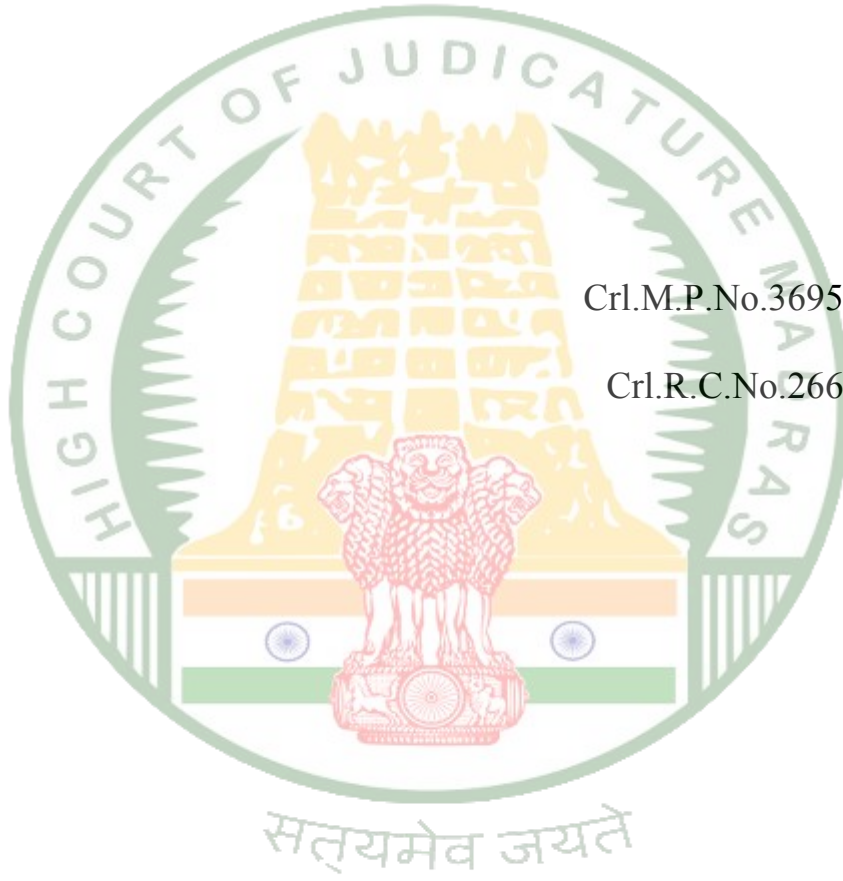
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