



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Friday, the Tenth day of December Two Thousand Twenty One

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PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA
CRIMINAL MISCELLANEOUS PETITION No.12830 of 2021

IN

CRL RC.450/2020

1 M/S. SREE DEEPALAKSHMI PACKA
GING INDUSTRIES,
REP.BY MANAGING PARTNER, H.DHEEBA

[PETITIONERS/ACCUSED]

2 H.DHEEBA

Vs

M/S. KOVAI MARUTHI PAPER AND
BOARDS (P) LTD., A COMPANY INCORPORATED
UNDER COMPANIES ACT, REPRESENTED BY ITS
EXECUTIVE COMMERCIAL, SHANMUGASUNDARAM,

[RESPONDENT]

Petition praying that in the circumstances stated therein the High Court will be pleased to order that the present matter Crl.R.C.No.450 of 2020 against Criminal Appeal No.47 of 2019 in S.T.C.No.265 of 2016 may be compounded and such further or other orders.

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S. R.KARUNAGARAN, Advocate for the petitioner and of M/S A.PADMANABHAN Advocate on behalf of the Respondent the court made the following order:-

(This case has been heard through video conference)

Heard the learned counsel for the respondent and the respondent/complainant. Mr.R.Karunakaran, learned counsel appearing for the petitioners and the petitioner/accused are present through video conferencing.

2. The learned counsel appearing for the petitioners would submit that the petitioner is the Managing Partner of M/s.Sree Deepalakshmi Packaging Industries, Virudhunagar. Though, she was



shown as the Managing Partner in M/s.Sri Deepalakshmi Packaging Industries, the entire business was run by her husband Late.Hariharan. During the course of business, the respondent/complainant had supplied the kraft papers to the partnership firm and in respect of out standing amount of Rs.13,05,017/- (Rupees Thirteen lakhs five thousand seventeen only), the second petitioner had issued two cheques bearing Cheque No.000367 for a sum of Rs.5,00,000/- and another Cheque No.000368 for a sum of Rs.8,05,017/- in the capacity as Managing Partner of the first petitioner/Firm. Due to the loss in the business, the firm was unable to honour the cheques. Thereby, the respondent/complainant had filed a private complaint in S.T.C.No.265 of 2016 before the Judicial Magistrate, Paramathi under Section 138 of Negotiable Instruments Act. The Trial Court had acquitted the petitioners and as against the order of acquittal, the Respondent/complainant had preferred C.A.No.47 of 2019 on the file of the Principal Sessions and District Judge, Namakkal and the Appellate Court allowed the Appeal by an order dated 13.01.2020 and reversed the order passed by the Judicial Magistrate, Paramathi and found the petitioners guilty and convicted and sentenced the second petitioner to undergo six months simple imprisonment and to pay a fine of Rs.13,05,017/- in default to undergo two months simple imprisonment and the fine amount was directed to be paid to the respondent/complainant as compensation. Against the judgment of conviction of sentence, the petitioners have preferred the Crl.R.C.No.450 of 2020.

3. The learned counsel would further submit that unfortunately, the husband of the petitioner passed away on 02.03.2020. Meanwhile, due to the intervention of well wishers known to the parties, a compromise has been effected and the respondent was benevolent enough to settle the case accepting Rupees Six Lakhs towards full quit and both the parties entered into a compromise, based on which they have agreed to compound the offence and have filed the petition for compounding before this Court.

4. The learned Counsel for the petitioner/accused submitted that as per the judgment in Damodar S.Prabhu v. Sayed Babalal H. reported in 2010 (5) SCC 663, the petitioner has to pay 15% of the cheque amount towards costs. However, in this case, the trial Court had acquitted the petitioner and the appellate Court had found her guilty. The petitioner is only a housewife and due to severe loss in the business her husband fell sick and passed away on 02.03.2020, taking into consideration that the petitioner is a widow and that she is not directly involved in the business, the respondent had agreed for the settlement. The petitioner being a widow with great difficulty had arrange for funds and she has no means to pay any other additional amount as costs. The learned counsel would further pray that the present position of the petitioner may be taken as a special case and that payment of cost may be waived and the parties may be permitted to compound the offence.



5. Considering the fact that the petitioner was not directly involved in the business and that she was acquitted by the trial Court and her husband passed away and she being a widow, the payment of cost is waived.

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6. In view of the above, the offence stands compounded under Section 147 of the N.I. Act and the judgment passed by the appellate Court in Crl.A.No.47 of 2019 dated 13.01.2020 is set aside and the accused is acquitted. Fine amount if any, paid by the accused shall be forfeited and credited to the account of Legal Services Authority attached to the concerned trial Court. Bail bond, if any executed by her shall stand cancelled. Registry is directed to transmit the original records if any, to the Court concerned forthwith.

7. In the result, this Crl.M.P.No.12830 of 2021 stands ordered as prayed for.

-sd/-

10/12/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
PARAMATHI

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE (FOR INFORMATION)

3 THE PRINCIPAL SESSIONS
JUDGE, NAMAKKAL

4 THE OFFICER INCHARGE,
LEGAL SERVICES AUTHORITY,
NAMAKKAL.



5 THE SECTION OFFICER,
CRIMINAL SECTION,
HIGH COURT, MADRAS.

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C.C. to M/S. R.KARUNAGARAN Advocate on payment of necessary charges

Order
in
CRL MP.12830/2021
in
CRL RC.450/2020

Date :10/12/2021

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

RVR 04/01/2022