

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twelfth day of July Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

CRIMINAL REVISION CASE NO.671 OF 2019

MANOHAR

[PETITIONER / APPELLANT / ACCUSED]

Vs

NAMBI

[RESPONDENT]

Petition praying that in the circumstances stated therein the High Court will be pleased to set aside the order of the learned Principal District and Sessions Court, Krishnagiri passed in C.A.NO.80 of 2014 dated 01/03/2016, confirming the judgement of conviction dated 13/10/2014 passed by the learned Fast Track Court, Judicial Magistrate, Hosur in S.T.C.NO.272 of 2013 and consequently acquit the petitioner of the charges U/s.138 of the Negotiable Instruments Act

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

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

2. It is the case of the complainant that the accused borrowed a sum of Rs.15,00,000/-, towards which liability, the accused issued a cheque for Rs.15,00,000/- dated 19.07.2013, which was dishonoured, when presented.

3. After issuing the statutory notice, the complainant initiated a prosecution in S.T.C.No.272 of 2013, in which, learned Judicial Magistrate (Fast Track Court), Hosur, by judgment dated 13.10.2014, convicted the accused of the offence under Section 138 of the Negotiable Instruments Act, 1881 and sentenced him to undergo six months simple imprisonment and pay a sum of Rs.15,00,000/- as compensation, challenging which, the accused filed C.A.No.80 of 2014, which was dismissed by the learned Principal District and Sessions Judge, Krishnagiri, on 01.03.2016.

4. The accused was arrested and committed to Prison for undergoing the sentence on 04.07.2019. Thereafter, his family members intervened and have entered into a memorandum of compromise on 02.07.2019 signed by the complainant, the terms of which are as under:

"i. The parties herein have mutually agreed that the party of Second Part shall pay a sum of **Rs.15,00,000/- (Rupees Fifteen lakh only)** to the party of the First Part in settlement of all the claims of Party of the First Part as against the Party of the Second Part.

ii. The Party of the First Part also agreed to receive the said sum of **Rs.15,00,000/-** as full and final settlement of all his claims as against the Party of the Second Part and also in respect of the above said case filed by him as against the Party of the Second Part U/s.138 of The N.I.Act in **S.T.C.No. 272 of 2013** before the Hon'ble Fast Track Court (Magisterial level) Hosur, which culminated in Appeal in **C.A.No. 80 of 2014** before the Hon'ble Principal District Sessions Judge, Krishnagiri, and which were dismissed on 01.06.2016.

iii. In pursuant to the said understanding arrived, the Party of the Second Part had paid a sum of **Rs.5,00,000/- (Rupees Five lakhs)** as part payment to the Party of the First Part, out of the mutually agreed full and final settlement amount of Rs.15,00,000/- in the following manner:

(a). Demand Draft bearing No.546336 dated 27-06-2019 drawn on ICICI Bank for a sum of Rs.3,00,000/-

(b). Demand Draft bearing No.501681 dated 01-07-2019 drawn on ICICI Bank, for a sum of Rs.2,00,000/-

(c). Cheque bearing No.891376 dated 24-07-2019 drawn on Indian Overseas Bank, Women Entrepreneur Branch, Chennai - 600 008 branch for a sum of Rs.2,50,000/-

(d). Cheque bearing No.891377 dated 12-08-2019 drawn on Indian Overseas Bank, Women Entrepreneur Branch, Chennai - 600 008 branch for a sum of Rs.2,50,000/-

(e). Cheque bearing No.891378 dated 29-08-2019 drawn on Indian Overseas Bank, Women Entrepreneur Branch, Chennai - 600 008 branch for a sum of Rs.2,50,000/-

(f). Cheque bearing No.460656 dated 17-09-2019 drawn on Indian Overseas Bank, Women Entrepreneur Branch, Chennai - 600 008 branch for a sum of Rs.2,50,000/-

iv. The Party of the first Part doth hereby admit and acknowledge the receipt of the above demand drafts and post dated cheques which is hereby paid by the Party of the Second Part as mutually agreed full and final settlement amount of Rs.15,00,000/-.

v. The Party of the First Part having received the above part +payment of Rs.5 lakhs had agreed to withdraw the petition for direction in Crl.O.P.No.23564/2018 filed before the Hon'ble High Court, Madras and the connected contempt petition in 938 of 2019.

vi. The Party of the Second Part hereby undertakes to pay the balance due amount of **Rs.10,00,000/- (Rupees Ten lakhs only)** as per the post dated cheques issued to the Party of the First Part without fail. If the post dated cheques dishonoured by the Second Part, the Party of the First Part has all liberty to file criminal case against the Second Part.

Vii. The Party of the First Part hereby agrees that on payment of the balance sum of Rs.10,00,000/- by the Party of the Second Part within **17/09/2019** from this date undertakes to cooperate with him to get the offence compounded by filing necessary petitions, memo or affidavits etc that may be required to get the offence compounded before the Hon'ble High Court, Madras in the criminal revision case that may be filed by the Party of the Second Part challenging his conviction as confirmed by the Hon'ble Principal District Sessions Judge, Krishnagiri in C.A.No. 80 of 2014, by an order dated 01/03/2016."

The issue cannot be compounded without the clearance of the post dated cheques that has been given by the accused to the complainant. Hence, post the matter on 23.09.2019.

-sd/-
12/07/2019

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

TRUE COPY

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

TO

1 THE JUDICIAL MAGISTRATE,
[FAST TRACK COURT],
HOSUR.

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI [FOR INFORMATION]

3 THE PRINCIPAL DISTRICT AND
SESSIONS COURT,
KRISHNAGIRI.

4 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

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

Order

in
CRL RC.671/2019

Date :12/07/2019

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

MK:12/07/2019