



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.25181 of 2021

1.M/s.Thirupathi Brothers,
No:16, Lamech Street, Janaki Nagar,
Valasarawakkam, Chennai-600 087.

2.Mr.N.Subash Chandrabose,
S/o.Nammalawar,
Partner,
M/s.Thirupathi Brothers,
No:16, Lamech Street, Janaki Nagar,
Valasarawakkam, Chennai - 600 087.

3.Mr.N.Lingusamy,
S/o.Nammalawar,
Partner,
M/s.Thirupathi Brothers,
No:16, Lamech Street, Janaki Nagar,
Valasarawakkam, Chennai - 600 087.

...Petitioners

Vs.

Rajendra Kumar

...Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to set aside the order passed by the learned XXI Addl. City Civil Judge, Alikulam, Chennai in Crl.M.P.No.18312 of 2021 in C.A.No.438 of 2018 and consequently permit the petitioners to compound the offence under Section 147 of the Negotiable Instrument Act.

For Petitioners : Mr.M.Murali

ORDER

This Criminal Original Petition has been filed to set aside the order, dated 02.11.2021, made in Crl.M.P.No.18312 of 2021 in C.A.No.438 of 2018, passed by the learned Additional City Civil Judge, Chennai.



2.The petitioners were convicted by the learned Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai in C.C.No.1841 of 2016, dated 24.07.2018 and, were sentenced to undergo ten months Simple Imprisonment and to pay a compensation of Rs.20,00,000/- (Rupees twenty lakh only) under Section 357(3) Cr.P.C to the respondent, as against which, the petitioners preferred an appeal before the learned XXI Additional City Civil Judge, Chennai in C.A.No.438 of 2018. During the pendency of appeal, the petitioners filed a petition under Section 147 of the Negotiable Instruments Act in CrI.M.P.No.18312 of 2021 in C.A.No.438 of 2018 to compound the offence as the matter of settlement between both parties. The learned XXI Additional City Civil Judge, Chennai, by order, dated 02.11.2021 directed the petitioners to pay 15% of the cheque amount to the District Legal Services Authority, Chennai, on or before 15.12.2021, against which the present Criminal Original Petition.

3.The learned counsel for the petitioners submitted that in this case, the cheque amount was only Rs.15,00,000/- (Rupees fifteen lakh only), despite the same, the trial Court while convicting the petitioners ordered compensation of Rs.20,00,000/- (Rupees twenty lakh only) to the respondent. The petitioners with great difficulty mobilized the amount and handed over to the respondent even before filing of appeal before the lower appellate Court. Though the lower appellate Court, by order, dated 02.11.2021, agreed to compound the offence, had imposed a condition of depositing 15% of the cheque amount to the Director of Legal Services Authority, Chennai on or before 15.12.2021, which is onerous one and it is yet another penalty. He further submitted that the petitioners and the respondent have agreed for compound the offence and as per Section 147 of the Negotiable Instruments Act, no condition need to be imposed against the accused. The dispute between the petitioners and the respondent is an offshoot of business commercial transaction between them.

4.Considering the submissions and on perusal of the materials, it is seen that the petitioners and the respondent have already been settled the issues and come forward to compound the offence. It is also seen that the respondent was paid the compensation amount of Rs.20,00,000/- (Rupees twenty lakh only) imposed by the trial Court while convicting the petitioners. While being so, again directing the petitioners to pay 15% of the cheque amount to the District Legal Services Authority, Chennai amounts to be an onerous one. Hence, the order, dated 02.11.2021 made in CrI.M.P.No.18312 of 2021 in C.A.No.438 of 2018 passed by the learned Additional City Civil Judge, Chennai is set aside. Accordingly, this Criminal Original Petition is allowed.



5.The learned counsel for the petitioners submitted that the petitioners are willing to deposit a sum of Rs.25,000/- to the District Legal Services Authority, Chennai, instead of 15% of the cheque amount. Considering the same, the petitioners are directed to deposit a sum of Rs.25,000/- (Rupees twenty five thousand only) to the District Legal Services Authority, Chennai, within 15 days from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

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To

1.The XXI Additional City Civil Judge,
Alikulam, Chennai.

2.The District Legal Service Authority,
Chennai.

+1cc to M/s.M.Murali, Advocate Sr.No.2288

Crl.O.P.No.25181 of 2021

KSM(CO)
RVM(07/02/2022)