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CrI.O.P.No.8063 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2023

CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

CrI.O.P.No.8063 of 2023

Gunasekaran

... Petitioner

/vs/

Dhandapani

... Respondent

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C. to compound the offence committed by the petitioner under Section 138 of Negotiable Instrument Act in Complaint Case No.318 of 2014 on the file of Judicial Magistrate, Fast Track Court at Magisterial Level -II, Coimbatore and to quash the sentence of one year imposed on the petitioner.

For Petitioner

... Mr.John Sathyan

for M/s. M.Revathi Manivannan

For Respondent

... Mr.N.Elayarajan

ORDER

This Criminal Original Petition has been filed seeking direction to compound the offence committed by the petitioner under Section 138 of Negotiable Instrument Act in Complaint Case No.318 of 2014 on the file of Judicial Magistrate, Fast Track Court at Magisterial Level -II,



CrI.O.P.No.8063 of 2023

Coimbatore and to quash the sentence of one year imposed on the petitioner.

2. The learned counsel for the petitioner submitted that, respondent filed a case under Section 138 of Negotiable Instruments Act in C.C.No.318 of 2014 on the file of the Judicial Magistrate, Fast Track Court (Magisterial Level) -II, Coimbatore and that case was ended in conviction and the petitioner was sentenced to undergo one year simple imprisonment and to pay a fine of Rs.10,000/-, in default to pay the fine amount to undergo two months simple imprisonment. Against the said judgment, petitioner filed Appeal in CrI.A.No.47 of 2017 on the file of the III Additional District and Sessions Judge, Coimbatore. The learned Judge confirmed the judgement of the trial Court and dismissed the Appeal. Aggrieved by the dismissal of the judgement in CrI.A.No.47 of 2017, petitioner filed CrI.R.C.No.12 of 2018 before this Court. This Court also confirmed the judgment of the trial Court and dismissed the revision petition. Thereafter, petitioner and the respondent had entered into agreement, wherein the compromise was reached. As per the agreement



Crl.O.P.No.8063 of 2023

reached, petitioner paid a sum of Rs.5 lakhs in full settlement. Respondent has no objection for withdrawing the case against the petitioner. Therefore, he seeks for compounding of the offence.

3. The compromise deed is produced for perusal of this Court. The learned counsel for the petitioner and respondent appeared and confirmed the compromise between the parties and prayed for recording of the compromise and also prays for releasing the accused.

4. The learned counsel for the petitioner relied on the order passed by this Court in Crl.M.P.No.3681 of 2023 in Crl.R.C.No.945 of 2022, for the proposition that, even if the Courts below and High Court confirms the sentence imposed on the accused, if the parties reached compromise, compromise can be recorded, especially in a case registered for the offence under Section 138 of Negotiable Instruments Act. The Hon'ble Judge relied on the Judgment of Apex Court in ***[Ramagopal and another Vs. State of Madhya Pradesh]*** in 2021(6) CTC 240 , wherein it is held that, in an appropriate case, this Court can exercise its jurisdiction under Section



Crl.O.P.No.8063 of 2023

482 of Cr.P.C and compound the offence.

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5. In view of the compromise reached between the parties and that, this being the case registered for the offence under Section 138 of the Negotiable Instruments Act and also the offence is compoundable in nature under Section 147 of Negotiable Instruments Act, this Court is inclined to entertain the petition seeking for compounding the offence.

6. Accordingly, this Criminal Original petition is allowed and the offence is compounded. Resultantly, the judgement of the conviction and sentence passed by the Trial Court and confirmed in Appellate Court and this Court in Criminal Revision are hereby set-aside and the petitioner is acquitted. This Court directs the petitioner be released forthwith, unless he is required in any other case.

20.04.2023

Index: Yes/No

Internet: Yes/No

Speaking/Non speaking order

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NOTE: ISSUE ORDER COPY ON 20.04.2023



CrI.O.P.No.8063 of 2023

To
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1. Judicial Magistrate, Fast Track Court (Magisterial Level) -II,
Coimbatore
2. III Additional District and Sessions Judge, Coimbatore
3. The Central Prison,
Coimbatore.



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Crl.O.P.No.8063 of 2023

G.CHANDRASEKHARAN, J.

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Crl.O.P.No.8063 of 2023

20.04.2023