



Crl.R.C.No.1443 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:: 10.01.2023

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

Crl.R.C.No.1443 of 2022

&

Crl.M.P.Nos.17357 & 16093 of 2022

M. Sagayam Balasingh

.. Petitioner

Vs.

K. Nandakumar

.. Respondent

PRAYER: Criminal Revision Case filed under sections 397 and 401 of Cr.P.C., to call for the records in connection with judgment dated 16.07.2020 passed in C.A.No.323 of 2019 on the file of the learned I Additional District and Sessions Judge, Coimbatore, partly allowing the appeal against the judgment of the learned Judicial Magistrate VI, Coimbatore in C.C.No.168 of 2017, dated 17.09.219 and to set aside the conviction.

For Petitioner : Mr. N. Shanmuga Thayumanavan

For Respondent : M/s. Derrick Sam



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ORDER

This Criminal Revision Case has been filed to call for the records in connection with judgment dated 16.07.2020 passed in C.A.No.323 of 2019 on the file of the learned I Additional District and Sessions Judge, Coimbatore, partly allowing the appeal against the judgment of the learned Judicial Magistrate VI, Coimbatore in C.C.No.168 of 2017, dated 17.09.219 and to set aside the conviction.

2. The case of the respondent/complainant is that the petitioner/accused borrowed a sum of Rs.5,00,000/- on 20.01.2016 from the respondent and he also executed a promissory note agreeing to repay the said amount along with interest at the rate of 24% per annum. To discharge the loan of principal amount, the petitioner issued a cheque, bearing No.802003 dated 20.08.2016 drawn on Canara Bank, Vadavalli Branch to the respondent. When the cheque was presented for encashment before the Karur Vysya Bank, Ramanathapuram Branch, the same was returned with an endorsement 'insufficient funds'. After issuing legal



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notice, the petitioner filed a private complaint before the Judicial Magistrate, VI, Coimbatore and the same was taken on file as C.C.No.168 of 2017. The trial judge, after considering the evidence of PW1 and RW1 and Ex.P.1 to Ex.P.7, convicted the petitioner under section 138 of the Negotiable Instruments Act and sentenced him to undergo rigorous imprisonment for a period of one year and to pay Rs.5,00,000/- being the cheque amount as compensation to the complainant within a period of three months, failing which, to undergo simple imprisonment for two months. Aggrieved over such conviction and sentence, the petitioner preferred criminal appeal in Crl.A.No.323 of 2019 before the I Additional District and Sessions Judge, Coimbatore, who by his judgment dated 16.07.2020, modified the sentence of the trial court by imposing simple imprisonment for 6 months, instead of rigorous imprisonment for one year and in other respects, it confirmed the judgment of the trial court. Aggrieved against the judgment of conviction and sentence imposed by the lower appellate court, the petitioner has preferred the present criminal revision petition along with Crl.M.P.No.17357 of 2022 seeking to compound the offence under section



3. When the matter is taken up for hearing, the learned counsel appearing for the petitioner as well as the learned counsel for the respondent submitted that the accused/petitioner and the respondent/complainant have settled their disputes amicably among themselves and the petitioner has settled the disputed cheque amount of Rs.5,00,000/- to the respondent and the receipt of the said amount has been acknowledged by the respondent herein, vide receipt dated 27.03.2022 and the same has been reduced in writing vide a settlement memo dated 27.03.2022. The parties have also jointly entered into a Joint Memo of Compromise, dated 11.11.2022 which was duly signed by both parties and their respective counsel. Thus, he prayed to allow this criminal revision case by recording the joint compromise memo entered between both the parties.

4. The learned counsel for the petitioner submitted that at the time of preferring appeal before the I Additional District and Sessions Judge,



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Coimbatore, he had deposited 20% of the cheque amount, i.e., Rs.1,00,000/- before the trial court. Now the entire cheque amount of Rs.5,00,000/- has been settled to the respondent and the receipt of the same was also acknowledged by him. Thus he pray this Court that the petitioner may be permitted to withdraw the said amount deposited before the trial court.

5. Heard both sides and perused the materials available on record.

6. It is seen that now both the parties viz., respondent/complainant and petitioner/accused have settled their disputes out of court and compromised with each other and to that effect, they have also filed a Settlement Memo, duly signed by the petitioner/accused, respondent/complainant.

7. In view of the Joint Memo of Compromise to compound the offence signed by both parties and their respective counsel and the submissions made by both counsel, the following order is passed;

(i) the Criminal Revision Case shall stand allowed.



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(ii) Consequently, Crl.M.P.No.17357 of 2022 seeking to compound the offence u/s.138 of Negotiable Instruments Act is allowed. Crl.M.P.No.16093 of 2022 is closed.

(iii) The offence under Section 138 of the Negotiable Instruments Act shall stand compounded.

(iv) Petitioner shall stand acquitted in the case. Bail Bond, if any, executed shall stand cancelled.

(v) The Joint Memo of Compromise dated 11.11.2022 filed to compound the offence shall form part of records.

(v) The amount of Rs.1,00,000/- deposited by the petitioner before the trial court at the time of preferring appeal before the lower appellate court is ordered to be refunded to the petitioner.

10.01.2023

Index: yes/no
Internet: yes/no
msr



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To
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1. The Judicial Magistrate VI, Coimbatore.
2. The I Additional District and Sessions Judge, Coimbatore.



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V. SIVAGNANAM, J.

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