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Crl.RC.No.1452 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.R.C.No.1452 of 2017

Rajesh

...Petitioner/Appellant/Accused

V.Velliangiri

.Vs.

... Respondent/Respondent/ Complainant/

Criminal Revision filed under Sections 397 r/w 401 of the Code of Criminal Procedure, to set aside the judgment in C.A.No.188 of 2016 dated 25.10.2017 on the file of the I Additional District Sessions Judge, Coimbatore confirming the sentence imposed in the judgment dated 05.12.2016 in S.T.C.No.229 of 2016, on the file of Judicial Magistrate No.II, Pollachi.

For Petitioner Ms.Premalatha
 for Mr.R.Nalliyappan

For Respondent Mr.C.Veeraraghavan
 V.J.Priyadharsana
 Government Advocate (Crl.side)



ORDER

This Criminal Revision Case was filed challenging the judgment and order passed by the I Additional District and Sessions Judge, Coimbatore in C.A.No.188 of 2016, dt.25.10.2017, dismissing the appeal and confirming the judgment and order passed by the learned Judicial Magisterial No.II, Pollachi in STC.No.229 of 2016, dt.05.12.2016, convicting the petitioner for offence u/s.138 of the Negotiable Instruments Act, 1881 and sentencing him to undergo one year simple imprisonment and also to pay compensation of a sum of Rs.3,00,000/- to the respondent/complainant, and in default, to undergo six months simple imprisonment.

2. When the criminal revision case came up for final hearing on 02.03.2023, this Court passed the following order:

When the matter was taken up for hearing today, it came to light that the petitioner did not comply with the condition imposed by this Court while suspending the sentence in Crl.M.P.No.14446 and 14448 of 2017 by an order dated 21.11.2017. The petitioner has also not executed any bail bond along with sureties. In spite of the same, the petitioner has managed to freely move around during the pendency of this Criminal Revision Case.

2. A Non Bailable Warrant is issued to secure the petitioner and there shall be a direction to the Inspector of Police, Pollachi Town East Police Station, Coimbatore to secure the petitioner and to produce him before this Court during the next date of hearing. It is made clear that if



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the petitioner brings a sum of Rs.3 lakhs which is the cheque amount, during the next date of hearing, this Court will record the compromise between the parties and compound the offence. If the petitioner does not bring the amount, the earlier order suspending the sentence will be cancelled / recalled and the petitioner will be sent to jail to undergo the sentence pending this Criminal Revision Case.

3. Post this case under the caption “for reporting execution of Non-bailable Warrant” on 09.03.2023.

3. When the matter was thereafter listed on 15.03.2023, this Court passed the following order:

When the matter was taken up for hearing, Mr.K.Balasubramanian, Sub Inspector of Police, Town East Police Station, Pollachi Sub-Division, Coimbatore District (Mobile No.9942299654), is present before this Court.

2. Pursuant to the earlier order passed by this Court on 02.03.2023, the petitioner was produced before this Court after execution of the non-bailable warrant.

3. The learned Government Advocate (Criminal Side) submitted that nearly four teams had to be formed in order to secure the petitioner and with very great difficulty, the petitioner was secured and brought before this Court.

4. The learned counsel for the petitioner submitted that he has already informed the petitioner about the order passed by this Court on 02.03.2023 and that some more time is required to settle the cheque amount to the respondent.



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5.In the considered view of this Court, the petitioner was enlarged on bail pending disposal of this Criminal Revision by imposing conditions. Those conditions were not complied with by the petitioner and the petitioner did not seek for any modification and petitioner was moving around freely without complying without any conditions imposed in the order passed by this Court suspending the sentence imposed by the Trial Court.

6.Since the petitioner did not comply with the conditions imposed by this Court when the sentence was suspended, the earlier order passed by this Court in Crl.M.P.Nos.14446 & 14448 of 2017, dated 21.11.2017, is hereby recalled.

7.The Sub Inspector of Police, who has brought the petitioner before this Court shall take the petitioner and confine him at the Sub Jail, Pollachi for the petitioner to undergo the sentence, pending disposal of this criminal revision case. As and when the petitioner arranges for the cheque amount of Rs.3,00,000/- (Rupees Three Lakhs only), it shall be informed to the learned counsel for the petitioner and the learned counsel for the petitioner shall make a mention before this Court after putting the learned counsel for the respondent on notice.

8.Post this criminal revision case under the caption 'Final Hearing' on 21.03.2023.

4.Pursuant to the above order, the petitioner was confined at Sub Jail, Pollachi and the case was posted for final hearing today.

5.When the matter was taken up, the learned counsel for the petitioner



submitted that the petitioner is willing to settle the entire compensation amount of a sum of Rs.3,00,000/- to the respondent and requested for compounding the offence.

6.The respondent viz., V.Velliangiri, was present at the time of hearing. The learned counsel for the respondent on instructions from the respondent, submitted that the sum of Rs.3,00,000/- has been received from the petitioner and that the respondent leaves it to this Court to pass further orders in this criminal revision case.

7.The respondent has also filed an affidavit before this Court and the relevant portions in the affidavit are extracted hereunder:

4.I State that in the mean time we are settled the matter out of the court. I received the entire cheque amount in review amicable settlement between as I have no other claim against the petitioner herein. I have no objection for set aside the conviction and sentence imposed on the petitioner. Hence I prayed this Hon'ble court may be permitted to compound the offence U/s 138 of N.I.

I therefore prayed that this Hon'ble Court may be pleased to set aside the conviction and sentence passed against the petitioner by the Judicial Magistrate No.2 Pollachi in STC No. 229 of 2016 dated 15.12.2016 confirmed by the 1st Additional District sessions judge in I.A. No. 188 of 2016 dated 01.09.2017 for the offence under section 138 of Negotiable Instrument Act, the petitioner may be acquitted and thus render justice.



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8. In the light of the above development, this Court is inclined to record the settlement between the parties and the offence is compounded. As a result, the judgment and order passed in C.A.No.188 of 2016 dated 25.10.2017, on the file of the I Additional District Sessions Judge, Coimbatore, confirming the judgment and order passed in S.T.C.No.229 of 2016, by the learned Judicial Magistrate No.II, Pollachi, dated 05.12.2016 is hereby set aside.

9. This Criminal Revision Case is disposed of in the above terms. The petitioner who is now confined at Sub Jail, Pollachi, shall be released forthwith.

21.03.2023

KP

Note: Issue order copy on 21.03.2023.

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation Case : Yes/No



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To

- 1.The Ist Additional District and Sessions Judge, Coimbatore.
- 2.The Judicial Magistrate No.II, Pollachi.
- 3.The Public Prosecutor,
High Court of Madras, Chennai.
- 4.The Superintendent of Prison,
Sub Jail, Pollachi.
- 5.The Inspector of Police,
Town East Police Station,
Pollachi Sub-Division,
Coimbatore District.



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N. ANAND VENKATESH, J.

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