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Crl.O.P.No.22328 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.22328 of 2023

1.M/s.Herlix Controls Private Limited,
rep.by their Director,
S.David Prabhakar,
C-104, K.K.Nagar,
Sowripalayam,
Coimbatore-641 028.

2.S.David Prabhakar,
S/o.A.Sebastian
Director,
M/s.Herlix Controls Private Limited,
No.15, Karthik Nagar-I, Sowripalayam Main Road,
Sowripalayam, Coimbatore-641 028.

3.S.Gerald Stephen Antony Raj,
S/o.Sebastian,
Managing Director,
M/s.Herlix Controls Private Limited,
No.15, Karthik Nagar-I, Sowripalayam Main Road,
Sowripalayam, Coimbatore-641 028.

... Petitioners

Vs.

S.Bharanitharan

... Respondent



Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to permit the petitioners to compound the offence and set aside the Judgment of the learned Judicial Magistrate, Fast Track Court, Tiruppur in C.C.No.212 of 2013 dated 12.11.2021.

For Petitioners : Mr.A.Nagarajan

For Respondent : Mr.A.Jagadeesh Chandra Bose

ORDER

This Criminal Original Petition is filed by the accused Nos.1 to 3 in C.C.No.212 of 2013 on the file of Judicial Magistrate, Fast Track Court, Tiruppur. The calender case arise on the private complaint given by one Bharanitharan for the offence under Section 138 of N.I.Act, alleged to have been committed by the petitioner herein.

2. The sum and substance of the complaint is that a sum of Rs.4,00,000/- borrowed by the 2nd and 3rd petitioners on behalf of their private limited company by name M/s.Herlix Controls Private Limited. To discharge the debt, four cheques, each one lakh rupees drawn from their account maintained in ICICI bank, Coimbatore branch were given. But on presentation of those cheques for collection, returned with an endorsement



“Insufficient funds”. The private complaint launched against these petitioners ended in conviction in C.C.No.212 of 2013 vide judgment dated 12.11.2021. The operative portion of the judgment reads as below:

“ The accused persons A1 to A3 are found guilty of offence under Section 138 r/w.141 of Negotiable Instruments Act and thereby they are convicted under Section 255(2) Cr.P.C. Since the 1st accused is company, its Directors/the accused persons A2 and A3 sentenced to undergo Simple Imprisonment for six months each to pay the cheque amount of Rs.4,00,000/- to the complainant by A1 to A3 as compensation under Section 357 (3) of Cr.P.C., in default further A2 and A3 are sentenced to undergo each one month Simple Imprisonment.”

3. Being aggrieved by the judgment of conviction and sentence, these petitioners filed appeal before the Principal Sessions Judge, Tiruppur, which was taken on file in C.A.No.119 of 2021, the appellate Court dismissed the appeal and confirmed the judgment of the trial Court vide order dated 04.08.2023.



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4. At this juncture, the parties have arrived at compromise and wanted to settle the dispute. Hence after receiving Rs.4,00,000/- being the cheque amount, this Criminal Original Petition is filed seeking leave of this Court to compound the offence and set aside the judgment of the Judicial Magistrate, Fast Track Court in C.C.No.212 of 2013 dated 12.11.2021 as confirmed by the Principal Sessions Court dated 04.01.2023.

5. Today, when the matter listed, the parties appeared through video conference and their respective counsels present in the Court had filed affidavit of Mr.S.Bharanitharan, the complainant along with the photocopy of the acknowledgment of the demand draft drawn in favour of Bharanitharan for Rs.4,00,000/-. Since the parties want to compound the offence which is permissible under the Negotiable Instruments Act, the Court recording the affidavit dated 14.09.2023 sworn by the complainant Bharanitharan and his acknowledgment for the receipt of Rs.4,00,000/- by way of demand draft, the offence under Section 138 of N.I.Act against the petitioners herein which ended in conviction is hereby compounded.



6. The learned counsel appearing for the petitioners submitted that while preferring the appeal as a pre-condition for suspension of sentence, the petitioners have deposited Rs.80,000/- in the account of C.C.No.212 of 2013 and it is lying in the Court deposit. Since the parties have compounded and agreed the petitioners to withdraw the money, necessary orders be passed.

7. Taking note of the above submissions, the trial Court is directed to return the money deposited by these petitioners as per the direction of the learned Principal Sessions Court, Tiruppur while suspending the sentence. The petitioners shall file appropriate petition before the trial Court and on proper identification, the deposited money of Rs.80,000/- shall be returned.

8. With the above directions, this Criminal Original Petition is disposed of.

16.10.2023

Index : Yes/No
Neutral Citation : Yes/No

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Dr.G.JAYACHANDRAN,J.

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WEB COPY To

The Judicial Magistrate, Fast Track Court, Tiruppur

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