



Crl.RC.No.965 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2024

CORAM

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

Crl.RC.No.965 of 2024
and
Crl.MP.No.10997 of 2024

R.Hemavathy

...Petitioner

Vs.

P.Narayanan

...Respondent

Criminal Revision Case filed under Section 397(1) and 401 of Cr.P.C., to call for the records pertaining to the judgment in C.A.No.41 of 2019 dated 06.10.2023 passed by the learned Principal Sessions Judge, Krishnagiri by confirming the judgment in STC.No.70 of 2017 dated 13.08.2019 passed by the learned Judicial Magistrate, Fast Track Court, Hosur, set aside the same by allowing the above criminal revision petition.

For Petitioner : Mr.M.Venkadesh Kumar

For Respondent : Mr.A.Gopinath,
Government Advocate(Crl. Side), for R1
: Mr.B.Mohan, for R2

ORDER



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Though the miscellaneous petition in Crl.MP.No.10997 of 2024 filed seeking to compound the offence has been listed today, in view of the consent expressed by the learned counsel on either side, the main revision itself is taken up for final disposal.

2. The Criminal revision case in Crl.RC.No.965 of 2024 has been filed seeking quashment of the order dated 06.10.2023 passed in C.A.No.41 of 2019 on the file of the Principal Sessions Judge, Krishnagiri, confirming the judgment dated 13.08.2019 made in STC.No.70 of 2017 on the file of the Judicial Magistrate, Fast Track Court, Hosur.

3. The petitioner is the accused and the respondent is the complainant. For the sake of convenience, the parties will be hereinafter referred to as 'accused' and 'complainant'.

4. The complainant initiated proceedings under Section 138 of the Negotiable Instruments Act in STC.No.70 of 2017 before the Judicial Magistrate, Fast Track Court, Hosur, against the accused alleging that during the month of December 2016, the accused borrowed a sum of Rs.4,70,000/-



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from the complainant as hand loan for her business necessity and towards discharge of the said liability, the accused issued a post dated cheque bearing No.989536 dated 22.01.2017 for a sum of Rs.4,70,000/-. When the said Cheque was presented for collection, the same was returned with an endorsement "Funds Insufficient". Thereby, the complainant issued legal notice dated 10.02.2017 and despite receiving the same on 11.02.2017, the accused failed to discharge the above said liability. Hence, the above complaint.

5. After elaborate discussions, the trial Court convicted the accused/ petitioner under Section 138 of the Negotiable Instruments Act and sentenced the accused to undergo simple imprisonment for six months and the accused was ordered to pay a compensation of Rs.4,70,000/-. Challenging the same, the petitioner filed an appeal in C.A.No.41 of 2019 and the learned Principal Sessions Judge, Krishnagiri, vide order dated 06.10.2023, dismissed the appeal and confirmed the conviction and sentence imposed by the trial court. Aggrieved by the same, the present revision has been filed.

6. Learned counsel for the petitioner submitted that during the



pendency of this revision, the petitioner/accused and the respondent/complainant arrived at a compromise and the petitioner paid the entire compensation amount of Rs.4,70,000/- to the respondent by way of Demand Draft bearing No.173291 dated 25.07.2024. Learned counsel appearing for the respondent/complainant also ratifies the same and the respondent/complainant has consented for compounding the offence under Section 138 of the NI Act.

7. In the case of **Damodar S. Prabhu Vs. Syed Babalal H., reported in [2010 (5) SCC 663]**, the Full Bench of the Hon'ble Supreme Court has held that where the offences are essentially of a private nature and relatively not quite serious, the Code considers it expedient to recognise some of them as compoundable offences and some others are compoundable only with the permission of the Court. In this regard, it is useful to extract hereunder paragraphs 16 and 17:

"16. It is evident that the permissibility of the compounding of an offence is linked to the perceived seriousness of the offence and the nature of the remedy provided. On this point we can refer to the following extracts from an academic commentary [cited from : K.N.C. Pillai, R.V.Kelkar's Criminal Procedure, Fifth Edn. (Lucknow: Eastern Book Company, 2008) at p.444]

"17.2. Compounding of offences .-- A crime



is essentially a wrong against the society and the State. Therefore any compromise between the accused person and the individual victim of the crime should not absolve the accused from criminal responsibility. However, where the offences are essentially of a private nature and relatively not quite serious, the Code considers it expedient to recognise some of them as compoundable offences and some others as compoundable only with the permission of the Court."

17. *In a recently published commentary, the following observations have been made with regard to the offence punishable under Section 138 of the Act [cited from : Arun Mohan, some thoughts towards law reforms on the topic of Section 138, Negotiable Instruments Act – Trackling an avalanche of cases (New Delhi: Universal Law Publishing Co. Pvt. Ltd., 2009) at p.5]:*

"...Unlike that for other forms of crime, the punishment here (insofar as the complainant is concerned) is not a means of seeking retribution, but is more a means to ensure payment of money. The complainant's interest lies primarily in recovering the money rather than seeking the drawer of the cheque in jail. The threat of jail is only a mode to ensure recovery. As against the accused who is willing to undergo a jail term, there is little available as remedy for the holder of the cheque."

8. In view of the fact that the accused and the complainant have entered into a joint memo of compromise and the complainant has no



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objection to compound the offence in view of the fact that the entire cheque amount of Rs.4,70,000/- has been paid, this Court is inclined to record the compromise and further compound the offence.

9. Accordingly, recording the memo of compromise entered into between the parties, the sentence imposed on the revision petitioner stands compounded and the revision petitioner is acquitted by setting the conviction and sentence imposed on the revision petitioner in STC.No.70 of 2017 dated 13.08.2019 on the file of the Judicial Magistrate, Fast Track Court, Hosur, which was confirmed by the learned Principal Sessions Judge, Krishnagiri in C.A.No.41 of 2019 dated 06.10.2023. The revision petitioner/accused is acquitted from all the charges levelled against her. The petitioner/accused is permitted to withdraw the 20% of the cheque amount already deposited by her before the trial court by making appropriate application.

10. Accordingly, the revision petition is disposed of in the aforesaid terms and consequently, the connected Criminal miscellaneous petition in



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Crl.MP.No.10997 of 2024 also stands ordered.

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Speaking Order : Yes/ No

Index : Yes/ No

Internet : Yes/ No

To

1. The Principal Sessions Judge,
Krishnagiri.
2. The Judicial Magistrate, Fast Track Court,
Hosur.
3. The Public Prosecutor,
High Court of Madras.

M.DHANDAPANI, J.

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