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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.OP No.17569 of 2023

Ramaprabha

...Petitioner/Appellant/Accused

.Vs.

Mathiyalagan

.. Respondent /Respondent/ Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the judgment and order dated 15.3.2022 in C.A.No.24/2020 on the file of the Principal Sessions Judge, Salem confirming the judgement and order dated 31.1.2020 in STC No.271/2015 on the file of the Judicial Magistrate, Sankari by permitting the petitioner to compound the offence in terms of Section 147 of NI Act, 1881.

For Petitioner : Mr.R.Harikrishnan

For Respondents : No appearance for R2

ORDER

This petition has been filed for compounding the offence under Section 147 of the Negotiable Instruments Act, 1881, on the ground that the petitioner was willing to settle the entire amount to the respondent as directed by the Trial Court.



2. When the matter came up for hearing on 3.8.2023, this Court passed the following order:

Notice to the respondent returnable by 8.8.2023.

Private notice is also permitted. Petitioner is also permitted to serve notice on the learned counsel, who appeared on behalf of the respondent before the Court below.

2. The petitioner was convicted for offence u/s.138 of the Negotiable Instruments Act and was sentenced to undergo one year simple imprisonment and to pay the cheque amount as compensation and in default to undergo one month simple imprisonment. The Appellate court has also confirmed the conviction and sentence passed by the trial Court. The petitioner wants to settle the cheque amount to the respondent and is seeking for compounding the offence u/s.147 of the Negotiable Instruments Act.

3. Learned counsel for petitioner has pressed into service the judgment of the Apex Court in ***Meters and Instruments (P) Ltd. v. Kanchan Mehta [(2018 1 SCC 560)]*** and ***Ramgopal and another v. State of Madhya Pradesh [2021 SCC OnLine SC 834]***. It is also brought to the notice of this Court that the petitioner is presently serving the sentence at Central Prison, Salem.

4. Learned counsel for petitioner further clarified that a reference was made to the Division Bench as to whether this Court can exercise its jurisdiction u/s.482 Cr.PC. After the conviction is confirmed in an appeal and the reference was answered to the effect that the jurisdiction cannot be entertained in ***M.Siva Perumal v. S.Kamalanathan [2021 (2) MWN (Cr) DCC 19]***. It is now brought to the notice of this Court that the Apex Court has set aside the order passed by the Division Bench in SLP No.22490 of 2021, dated 11.12.2021 and the compromise was accepted and the accused therein was



acquitted from the charges levelled against him. In view of the same, learned counsel submitted that the present petition is maintainable before this Court.

Post this case on 08.08.2023.

3.The matter was taken up for hearing once again on 9.8.2023 and this Court passed the following order:

The affidavit of service has been filed and it is seen that the respondent has been served on 08.08.2023.

2. Registry is directed to verify if any vakalath has been filed on behalf of the respondent. If not, print the name of the respondent in the cause list.

3. Learned counsel for petitioner submitted that the trial Court while imposing sentence had fixed the compensation amount equivalent to the cheque amount to the tune of Rs.4,00,000/-. Out of this, a sum of Rs.80,000/- has already been deposited by the petitioner during the pendency of the appeal on 02.03.2020. For the balance payment of Rs.3,20,000/-, the cheque is readily available with the petitioner.

4. In view of the same, there shall be a direction to the petitioner to deposit the sum of Rs.3,20,000/- (Rupees Three Lakhs and Twenty Thousand only) to the credit of S.T.C.No.271 of 2015 on the file of Judicial Magistrate II, Sankari, tomorrow [10.08.2023]. On compliance of the same, the petitioner is granted interim bail subject to the following conditions:

(i) the petitioner shall execute a bond for a sum of Rs.10,000/- [Rupees Ten Thousand only] with two sureties for the like sum to the satisfaction of the Judicial Magistrate II, Sankari; and



Magistrate II, Sankari, daily at 10.30 a.m. until further orders are passed in this Criminal Original Petition.

Post this case on 18.08.2023 at 02.15 p.m.

4.The case was listed for hearing on 6.10.2023 and this Court passed the following order:

The petitioner herein is the accused found guilty in a private complaint instituted under Section 138 of N.I.Act.

2. The Appeal preferred by the Trial Court judgment was also dismissed, confirming the judgment of the Appellate Court. Thereafter the petitioner has resorted to the inherent powers of this High Court by filing a Criminal Original Petition under Section 482 of Cr.P.C. to set aside the order of conviction. This Court entertained the Criminal Original Petition and passed an interim order directing the petitioner to deposit the cheque amount, which has been ordered to be paid as compensation to the complainant. While suspending the sentence, this Court also directed the petitioner to appear before the Judicial Magistrate No.II, Sankari, daily at 10.30 a.m, until further orders. In CrI.MP.No.15503 of 2023 is filed to relax the condition imposed regarding the appearance of the petitioner daily before the Judicial Magistrate No.II, Sankari.

3.The learned counsel appearing for the petitioner submitted that having deposited the cheque amount as compensation in toto, the personal appearance before the Judicial Magistrate, No.II, Sankari daily is not required. However, in reference to the conditions passed in the conditional order, the petitioner is scrupulously complying with the conditions for the past few months and therefore the condition shall be relaxed in toto.



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complainant/respondent, despite the notice. The name of the complainant is printed in the cause-list. Since the entire cheque amount has already been deposited in the Trial Court, this Court is of the opinion that the appearance of the petitioner before the Trial Court daily is no more required. Hence, the condition to appear before the Trial Court daily is relaxed.

5. The Judicial Magistrate No.II, Sankari, is directed to cause summons to the respondent/ private complainant for his appearance and inform about the deposit of money of Rs.4,00,000/- in STC account initiated to the petitioner. The Judicial Magistrate No.II, Sankari shall be permitted to withdraw the money after obtaining full quit in satisfaction. The Judicial Magistrate No.II, Sankari, shall report about the action taken in the above line on or before 31.10.2023.

6. Call the matter on 03.11.2023

5.Pursuant to the above Order, a report has been received from the learned Judicial Magistrate-II, Sankari and the relevant portions are extracted hereunder:-

I most humbly submit that as per the direction of the Hon'ble High Court in reference cited above, this Court on informing from the Petitioner/Defacto Complainant as to the deposit of Rs.4,00,000/-, the defacto Complainant had appeared before this court claiming the deposited amount by filing a memo pertaining to the order of the Hon'ble High Court.

I also humbly submit that after due inquiry and on persual of the memo filed by the Defacto complainant this Court had credited the deposited money of Rs.4,00,000/- to the



with the direction of the Hon'ble High Court.

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This is your Honour's kind consideration.

6.It is clear from the above that the entire compensation amount has been paid and it has also been credited to the bank account of the de facto complainant.

7.In the light of the above development, the judgment in CA.No.24 of 2020, dated 15.3.2022 confirming the judgment in STC No.271 of 2015 dated 31.1.2020, is set aside and the offence is compounded in terms of Section 147 of Negotiable Instruments Act, 1881 and accordingly, this criminal original petition stands allowed.

24.01.2024

Speaking Order/Non-Speaking Order
Index: Yes/No
Internet: Yes/No
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To

1.Principal Sessions Judge, Salem.

2.Judicial Magistrate, Sankari.

N.ANAND VENKATESH.J.,

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