



CrI.O.P.No.26696 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P.No.26696 of 2023

Mrs.S.Devi

... Petitioner

Vs.

Mrs.Gajalakshmi

..Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to permit the petitioner and the respondent to compound the offence based on the compromise dated 15.07.2019 relating to the conviction imposed in the judgment dated 25.04.2017 made in S.T.C.No.91 of 2016 on the file of the learned Judicial Magistrate, fast Track Court (Magisterial Level) Ambattur confirmed in the judgment dated 22.01.2019 made in C.A.No.83 of 2017 on the file of the learned Principal Sessions Judge, Tiruvallur which was also confirmed in the order dated 14.08.2023 made in CrI.R.C.No.1162 of 2019 by this Court and acquit the petitioner in the above said charge.

For Petitioner : Mr.A.Velmurugan

For Respondent : Mr.S.Ravichandran



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ORDER

This petition has been filed to compound the offence under Section 147 of the Negotiable Instruments Act on the ground that the petitioner has settled the amount.

2. When the matter came up for hearing on 15.12.2023, this Court passed the following order:

It is a pathetic case of a litigant who had engaged a Counsel to contest his Criminal Revision Petition, challenging the concurrent findings of the Courts below arising out of a private complaint under Section 138 of Negotiable Instruction Act.

2. The petitioner herein was tried for the offence under Section 138 of N.I. Act. The case ended in conviction in S.T.C.No.91 of 2016 dated 25.04.2017 by judgment passed by Judicial Magistrate, Magisterial Level, FTC, Ambattur. The accused was directed to undergo 5 months S.I and pay the cheque amount of Rs.2,52,000/- as compensation.

3. Challenging the conviction and sentence passed by the trial Court, she has preferred CrI.A.No.83 of 2017 and same was dismissed by the Principal Sessions Judge, Tiruvallur on 22.01.2019. The petitioner had entrusted her case to a Counsel to prefer revision and the revision petition was filed before this Court in CrI.R.C.No.1162 of 2019 but it appears that, on 11.07.2023, when the matter came up for hearing, there was no representation on behalf of the petitioner, hence the matter was adjourned and listed on 14.08.2023. On that day, this Court has



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observed that, on 08.06.2023, directed the Legal Aid Counsel to appear on behalf of the respondent and adjourned the case on 04.07.2023. On 04.07.2023, there was no representation on either side. Therefore, the case was posted on 11.07.2023 under the caption “for dismissal”, an that day also, there was no representation for the petitioner. Hence, this Court directed the Learned Judicial Magistrate, FTC (Magisterial Level), Ambattur, to issue warrant and secure the accused and commit him to prison to undergo the sentence imposed. On 25.07.2023, the Learned Judicial Magistrate has reported to this Court that the warrant has been issued and the accused/petitioner was secured and committed to prison and till date the petitioner is in prison.

4. The present petition is filed under Section 482 of Cr.P.C., stating that the revision petition preferred and came to be dismissed due to non- appearance of Learned Counsels on the dates when the case was listed and the listing of case never put to notice of the petitioner and in fact, the petitioner as well as the respondent/defacto complainant had entered into a compromise and Demand Draft for a sum of Rs.2,52,000/- being the cheque amount was drawn on 15.07.2019 and received by the respondent with an undertaking that, he will say his 'no objection' in the revision petition pending before the High Court.

Unfortunately, the matter was amicably between the parties and never brought to the notice of this Court since, the learned Counsels did not appear and as a consequence, the petitioner herein was incarcerated in prison for nearly four years, whereas, the sentence imposed by the trial Court is only for 5 months and compensation.

5. The Learned Counsel for the petitioner submits that the compromise entered between the parties on 15.07.2019 and the payment of compensation amount to



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be taken note and offence to be compounded.

6. The Affidavit from the prison is filed by the petitioner herein narrating the sequence of events.

7. This Court finds that the detention of the petitioner in prison in the above circumstances is unwarranted and having brought to the notice of this Court, even though there is no application for bail or any petition nature of enlarging the petitioner from jail, this Court in exercise of its power under Section 482 of Cr.P.C., directs the Superintendent of Police, Special Prison for Women, Puzhal, to release the petitioner herein on her own bond forthwith on receipt of this order. The petitioner on her release, shall report before the Judicial Magistrate, Fast Track Court, (Magisterial Level), Ambattur, furnish two sureties and execute a bond of Rs.10,000/- each. Meanwhile, the Learned Counsel for the petitioner shall sent notice to the respondent/defacto complainant through registered post returnable by 05.01.2024. Call the matter on 05.01.2024.

3. When the matter was taken up for hearing today, the learned counsel appearing on behalf of the respondent submitted that the amount has been paid to the respondent and that the matter has been amicably settled between the parties. The payment of the amount to the respondent is also evidenced by the certificate that was issued by the Tamil Nad Mercantile Bank dated 30.08.2023.



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4. In the light of the above development, the offence is compounded and the judgment in S.T.C.No.91 of 2016 on the file of the learned Judicial Magistrate, Fast Track Court (Magisterial Level) Ambattur, confirmed in the judgment dated 22.01.2019 made in C.A.No.83 of 2017 on the file of the learned Principal Sessions Judge, Tiruvallur and further confirmed in the order dated 14.08.2023 made in Crl.R.C.No.1162 of 2019, is set aside. Accordingly, this Criminal Original Petition stands allowed.

09.02.2024

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

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To

1.The Judicial Magistrate,
Fast Track Court (Magisterial Level) Ambattur.

2. The Principal Sessions Judge, Tiruvallur

3.The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH, J.

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