



Crl.R.C.(MD).No.581 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 19.06.2024

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD)No.581 of 2023

D.M.Subramanian

... Petitioner

Vs.

Balasubramanian

... Respondent

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records in connection with Crl.A.No.40 of 2022 dated 22.02.2023 by the Sessions Court, Thanjavur District confirming the order of conviction and sentence as made in S.T.C.No.251 of 2017 dated 07.06.2022 on the file of the Judicial Magistrate, Fast Track Court, Magisterial Level, Thanjavur and set aside the same as illegal and devoid of merits forthwith.

For Petitioner : Mr.K.M.Subrahmaniam

For Respondent : Mr.S.Vijayakumar



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ORDER

This Criminal Revision Case has been filed to call for the records in connection with Crl.A.No.40 of 2022 dated 22.02.2023 by the Sessions Court, Thanjavur District confirming the order of conviction and sentence as made in S.T.C.No.251 of 2017 dated 07.06.2022 on the file of the Judicial Magistrate, Fast Track Court, Magisterial Level, Thanjavur and set aside the same as illegal and devoid of merits forthwith.

2. The petitioner borrowed a sum of Rs.4,00,000/- from the respondent on 20.10.2015 towards family medical expenses. To discharge the said liability, he issued cheque on 28.11.2015 drawn on the bank of Canara Bank, Kuravapulam Branch. The respondent presented the cheque before his Bank and the cheque was returned with an endorsement of “Insufficient Funds”. Therefore, the respondent issued the legal notice on 19.12.2015. Even though the petitioner received the same on 21.12.2015, he has not sent any reply and has not made any payment. In such circumstances, the respondent filed a complaint under Section 138 Cr.P.C., before the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Thanjavur and the same was taken on file in S.T.C.No.251 of 2017.



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3. Thereafter, on receipt of the summons, the petitioner appeared and contested the case. The learned Trial Judge after following the procedure, examined the witnesses and perused the documents produced before the Court and passed the conviction under Section 138 of Negotiable Instruments Act to undergo one year Simple Imprisonment and to pay a fine amount of Rs.4,00,000/- to the respondent as compensation in default, to undergo one month Simple Imprisonment by the Judgment dated 07.06.2022.

4. Aggrieved over the same, the petitioner filed the Criminal Appeal in Crl.A.No.40 of 2022 on the file of the Sessions Court, Thanjavur District . The learned Appellate Judge also confirmed the same. Hence, the petitioner preferred this revision before this Court.

5. Today (19.06.2024), when the matter is taken up for hearing, both counsel on record would submit that they have already filed joint compromise memo, which is extracted here under :-



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IN THE HIGH COURT OF JUDICATURE AT MADRAS
MADURAI BENCH AT MADURAI
(Criminal Original Jurisdiction)

Crl.M.P.(MD) No. of 2024

In
Crl.R.C.(MD) No. 581 of 2023

In
Crl.Appeal No.40 of 2022
(On the file of the Learned Principal Sessions Court,
Thanjavur District)

In
S.T.C.No.251 of 2017
(On the file of the Learned Judicial Magistrate, Fast Track Court,
Thanjavur District)

D.M.Subramanian,
S/o. Murugaiya Puraiyur,
Chettipulam North Kadu,
Chettipulam and Post,
Vedaranyam Taluk,
Nagapattinam District.

... Petitioner/Revision petitioner/
Appellant / Respondent

-Vs-

Balasubramanian,
S/o. Natesan,
No.11/6, N.K. Lane,
Thirubuvanani,
Thiruvidaimaruthur Taluk,
Thanjavur District.

... Respondent/Respondent/
Respondent/Complainant

D. M. Subramanian

N. Balasubramanian



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**THE JOINT COMPROMISE MEMO FOR COMPOUNDING THE
OFFENCE U/S 138 OF NI ACT**

1. The Respondent had filed a complaint before the Learned Judicial Magistrate, Fast Track Court, Thanjavur District for dishonour of the cheque issued by the Petitioner and the same was taken on file as S.T.C.No.251 of 2017. In this case, the Learned Trial Court convicted the petitioner for 1 year Simple Imprisonment along with the compensation of Rs.4,00,000/- Le., the cheque amount of the complaint. The Trial Court suspended the sentence on the date of conviction and thereafter, the petitioner had appealed the case before the First Appellate Court (Hon'ble Sessions Court, Thanjavur) in CrI.Appeal No.40 of 2022 and the First Appellate Court also suspended the sentence passed by the Trial Court after that the 20% of the cheque amount was deposit in this case.

2. The First Appellate Court confirmed the Trial Court judgment and hence, the petitioner has preferred the present Revision before this Hon'ble Court. This Hon'ble Court has passed an order direct the petitioner to deposit Rs.1,50,000/- before the Trial Court, inter alia, the petitioner and the Respondent made a compromise between them. It has been reduced in writing before the two witnesses on 20.09.2023. The Respondent and the Petitioner come to the conclusion as per the written compromise memo that the Petitioner would have received

D. H. Subramanian

N. Balakrishnan



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Rs.1,70,000/- instead of Rs.4,00,000/-. In this regard, Rs.90,000/- has already been received by the Petitioner by cash in his hand, the remaining amount of Rs.80,000/- already deposited in the Learned Judicial Magistrate, Fast Track Court, Thanjavur District that amount can be withdraw by the Complainant. The petitioner / accused will not object when the Respondent / Complainant would withdraw the amount already deposited by the petitioner / accused.

3. The petitioner and the Respondent are very good friends and now has decided to maintain their relationship in future also. Hence, the Petitioner and the Respondent has decided to compound the case by way of compromise pending before this Hon'ble Court, as Crl.R.C.(MD) No.581 of 2023, by filing joint compromise memo.

4. The Petitioner states that as per the present compromise memo it has been assured by both parties that, they would not develop animosity at any point of time and also they would continue very good friendship forever and misunderstanding between them have got erased in their mind.

5. The Petitioner states that the Respondent / Complainant has no objection whatsoever with regard to getting the matter to be settled amicably and amount involved in the case is also compensated by the

D.M. Selvaraj

N. Balakrishnan



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Petitioner subject to his satisfaction. Hence, the Respondent / Complainant have not any grievance whatsoever as matter settling.

6. The Petitioner states that the Petitioner and the Respondent are filing this joint compromise memo for the settlement as made for compromise. If the case is allowed to be continued before this Hon'ble Court, the Petitioner and the Respondent will get serious prejudice and irreparable loss. No prejudice would be caused to the Respondent, if the case is ordered to be withdrawn by this Hon'ble Court.

Hence, it is humbly prayed that this Hon'ble Court may be pleased to pass an order accepting the joint compromise memo filed by the Petitioner and the Respondent in connection with Crl.R.C.(MD) No. 581 of 2023 pending before this Hon'ble Court and compound the same forthwith and thus render justice.

Dated at Madurai on this the 10th day of APRIL, 2024.

D.M. Subarnish
Petitioner

A. Balakrishnan
Respondent

Counsel for the Petitioner

Counsel for the Respondent



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DISTRICT: THANJAVUR

HIGH COURT: MADRAS
MADURAI BENCH
(Criminal Original Jurisdiction)

Crl.M.P.(MD) No. of 2023

In

Crl.R.C.(MD) No. 581 of 2023

In

Crl.Appeal No.40 of 2022

(On the file of the Learned Principal Sessions
Court, Thanjavur District)

In

S.T.C.No.251 of 2017

(On the file of the Learned Judicial Magistrate,
Fast Track Court, Thanjavur District)

THE JOINT COMPROMISE MEMO FOR
COMPOUNDING THE OFFENCE U/S 138
OF NI ACT

M/s. K.M.SUBRAHAMANIAM
(Enrl.No.980/1987)

K.PRABAKRAN (Enrl.No.1073/2007)

K.M.S.MUTHUKUMARAN
(Enrl.No.2046/2021)

COUNSEL FOR THE PETITIONER
Mobile No: 99431 82562



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6. The contents of the above joint compromise memo are read over and explained to both the parties and they would admit the same. The joint compromise memo filed by both the parties is recorded.

7. In view of the compromise entered between the parties, the offence under Section 138 of Negotiable Instruments Act stands compounded under Section 147 of the Negotiable Instruments Act.

8. Accordingly, the conviction and sentence imposed by the Judicial Magistrate, Fast Track Court, Magisterial Level, Thanjavur in S.T.C.No.251 of 2017 dated 07.06.2022, and confirmed by Principal Sessions Court, Thanjavur District, in Criminal Appeal No.40 of 2022 dated 22.02.2023, is hereby set aside and the Criminal Revision Case is allowed. The accused is acquitted from the charges levelled against him. Bail bond if any, executed by the accused shall stand discharged.

19.06.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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- To
- 1.The Principal Sessions Court,
Thanjavur District.
 - 2.The Judicial Magistrate, Fast Track Court, Magisterial Level,
Thanjavur.
 - 3.The Section Officer,
Record Section (Criminal),
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

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CrI.RC(MD)No.581 of 2023

19.06.2024