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*Crl.M.P.No.4286 of 2025
in Crl.RC.No.1099 of 2017*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.M.P.No.4286 of 2025
in Crl.RC.No.1099 of 2017

Abdul Khader

... Petitioner

Vs.

1.Sunil Kumar.C

2.The State rep.

Through the Public Prosecutor,
Puducherry.

... Respondents

PRAYER: Criminal Miscellaneous Petition filed under Section 528 of BNSS, to recall the order dated 18.02.2022 in the above Crl.RC.No.1099 of 2017 to record the compounding of the offence under Section 138 of Negotiable Instruments Act and set the first respondent at liberty in the case in S.T.R.No.2019 of 2013 on the file of the learned Judicial Magistrate at Mahe, Puducherry.

For Petitioner : Mr.S.Anil Sandeep



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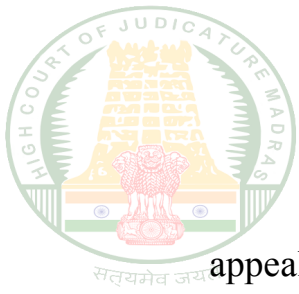
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For R1 : Mr.C.V.Kumar
For R2 : Mr.M.V.Ramachandramurthy
Additional Public Prosecutor [Puducherry]

ORDER

The petitioner/first respondent in Crl.RC.No.1099 of 2017 filed the above petition to recall the order dated 18.02.2022 in Crl.RC.No.1099 of 2017 to record the compounding of the offence under Section 138 of Negotiable Instruments Act and set the first respondent at liberty.

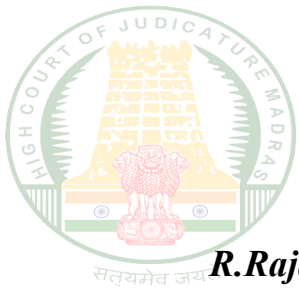
2.The contention of the learned counsel for the petitioner is that the petitioner filed a private complaint against the first respondent in S.T.R.No.2019 of 2013 under Section 138 of NI Act on the file of the learned Judicial Magistrate at Mahe, Puducherry. The Trial Court on conclusion of trial convicted the first respondent by judgment dated 17.10.2014 and sentenced him to undergo one year simple imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo three months simple imprisonment. Aggrieved against the same, the first respondent filed an



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appeal in Crl.A.No.39 of 2014 and the learned II Additional Sessions Judge, Puducherry by judgment dated 02.03.2017 dismissed the appeal confirming the conviction and sentenced imposed by the Trial Court. Thereafter, the first respondent filed Crl.RC.No.1099 of 2017 and this Court by order dated 18.02.2022 dismissed the revision confirming the conviction and sentence imposed by the Trial Court.

3.The learned counsel for the petitioner submitted that after the conviction, the first respondent approached the petitioner and resolved the issue by settling the entire cheque amount in cash. The petitioner ought to have informed this Court or the Trial Court about the settlement arrived at but since it is a private complaint and the issue got resolved, the petitioner left as it is. Three years after the dismissal of the revision petition in Crl.RC.No.1099 of 2017. Now the petitioner was informed about first respondent/accused secured by the Police based on the conviction warrant issued by the Trial Court in S.T.R.No.2019 of 2013 and the first respondent is presently confined in Central Prison, Kannur. The learned counsel relied upon the decision of the Apex Court in the case of ***K.Subramanian vs.***



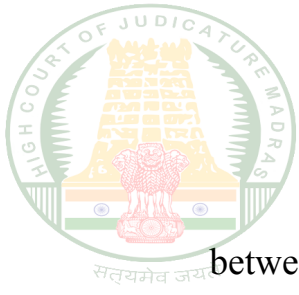
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R.Rajathi rep. by Power of Attorney P.Kaliappan reported in CDJ 2009 SC

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2024, wherein the Apex Court having regard to the salutary provision of Section 147 of NI Act r/w. Section 320 of Cr.P.C. and in view of the compromise arrived between the parties, permitted the parties to compound the offence under Section 138 of NI Act despite the fact that though the main case earlier dismissed by the Apex Court. In view of the compounding, the order of conviction and sentence recorded by all the Courts were set aside and the petitioner therein acquitted from all charges levelled against him. This principle consistently followed, recently in ***Ramratan Meena vs. State of Rajasthan and another [Miscellaneous Application Nos.2657-2658 of 2024 in Crl.A.Nos.1406-1407 of 2021 dated 14.02.2025]***, the principle reiterated. Hence, this Court has ample power to entertain and record the compounding of the offence under Section 147 of NI Act between the complainant and the accused in cases under Section 138 of NI Act even if the main case was dismissed on merits earlier.

4.Today [06.03.2025], the petitioner/complainant appeared before this Court through video conferencing and confirmed the settlement arrived at



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between the petitioner and the first respondent.

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5.Recording the submission made by the petitioner/complainant and in view of the decision of the Apex Court, this criminal miscellaneous petition is ordered. Accordingly, the order passed by this Court in Crl.R.C.No.1099 of 2017 dated 18.02.2022 is hereby recalled.

06.03.2025

cse

Note: Issue order copy on 06.03.2025

To

1.The Judicial Magistrate,
Mahe, Puducherry.

2.The Public Prosecutor,
Puducherry.



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M.NIRMAL KUMAR, J.
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