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Crl.RC.No.1455 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.R.C.No.1455 of 2017

Tharasumathi

...Accused/Appellant/Appellant

.Vs.

D.Bhuvana

... Complainant/Respondent/Respondent

Criminal Revision filed under Sections 397 & 401 of the Code of Criminal Procedure, setting aside the judgment of the learned III Additional Sessions Judge, Vellore at Tiruppur dated 07.10.2017 in Criminal Appeal No.19 of 2015, confirming the judgment of the learned Additional District Munsif-cum-Judicial Magistrate, Ambur, Vellore District dated 13.07.2014 in C.C.No.14 of 2014.

For Petitioner Mr.Anantha Kumar
 for Mr.T.M.Hariharan

For Respondent Ms.D.Bhuvana

Mr. L.Baskaran
Government Advocate (Crl.side)



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ORDER

This Criminal Revision Case was filed against the judgment and order passed by both the Courts below convicting the petitioner for offence under Section 138 of the Negotiable Instruments Act and sentencing him to undergo three months simple imprisonment and to pay compensation of Rs.2,25,000/- to the respondent.

2.During the pendency of this criminal revision case, there was a settlement between the parties and the petitioner has paid a sum of Rs.3,00,000/- to the respondent and the compromise entered into between both the parties was also placed before this Court. For proper appreciation, the entire compromise is extracted hereunder:

2018 வருடம் மே மாதம் 19.05.2018 தேதி வேலூர் மாவட்டம் அணைக்கட்டு வட்டம், பள்ளிகொண்டா, பிளாசம் வில்லாவில் விசிக்கும் குப்புசாமி மணைவி உதவி தலைமை ஆசிரியர் பொய்கை பெண்கள் மேல்நிலைப்பள்ளி D.பவனா ஆகிய நான்,

வேலூர் மாவட்டம் ஆம்பூர் வட்டம், ஆலாங்குப்பம் கிராமத்தில் வசிக்கும் அகரம்சேரி அரசுபள்ளி ஆசிரியர் தாரா சுமதி ஆகிய உங்களுக்கு எழுதிக்கொடுப்பது என்னவெனில்,

நான் உங்கள் மீது ஆம்பூர் கூடுதல் மாவட்ட உரிமையியல் மற்றும் குற்றவியல் நடுவர் நீதிமன்றத்தில் தாக்கல் செய்த காதோலை வழக்கு எண்.14/2015 அதன்மீது நீங்கள் தாக்கல் செய்த CA மேல்முறையீடு எண்.19/2015 கூடுதல் மாவட்ட நீதிமன்றம் திருப்பத்துர் III-ல் பிறப்பித்த தீர்ப்பில் பேரில் நீங்கள் மாண்புமிகு சென்னை உயர்நீதிமன்றத்தில் தாக்கல் செய்த 2-வது மேல்முறையீடு



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எண்.1455/2017 (CRLRC)1455/2017 நிலுவையில் உள்ளது.

இதற்கிடையில் நமக்குள் ஏற்பட்ட சமாதானத்தின்படி மேற்கண்ட காசோலை வழக்கிற்கு 19.05.2018-ல் நான் ரூ.3,00,000/- (மூன்று லட்சம் இன்று பெற்றுக்கொண்டேன்). இதனை நான் முழுத்தொகையாக பெற்று கொள்கிறேன். ஏற்கனவே நீங்கள் CMP/.14464/2017-ல் நீதிமன்றத்தில் செலுத்தியுள்ள தொகையினை நீங்கள் பெற்றுக்கொள்ள வேண்டியது. இதில் எனக்கு எந்தவிதமான ஆட்சேபனையும் இல்லை. மேலும் நான் மாண்புமிகு சென்னை உயர்நீதிமன்றத்தில் தாங்கள் அழைக்கும் பொழுது ஆஜராகி இந்த சமாதானத்தினை நேரில் தெரியப்படுத்தி முடித்து கொடுக்கிறேன். இந்த சமாதானத்தினை மீறி நான் எந்தவிதமான மேல்முறையீடும் செய்யமாட்டேன்.

3.It is clear from the above that the respondent has received a sum of Rs.3,00,000/- from the petitioner and has expressed that he is no longer willing to prosecute this case.

4.When the matter came up for hearing on 02.01.2023, this Court passed the following order:

The Criminal Revision Case is preferred by the accused against the judgment of conviction by the trial Court as well as the lower appellate Court, arising out of a private complaint filed under Section 138 of the Negotiable Instruments Act.

2. The contention of the petitioner is that the respondent had filed a private complaint under Section 138 of Negotiable Instruments Act in C.C.No.14 of 2015 before the District Munsif cum Judicial Magistrate, Ambur, Vellore District. The trial Court by judgment



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dated 13.07.2015 found the petitioner/accused guilty and convicted and also directed the petitioner to pay a sum of Rs.2.25 lakhs as compensation. Against which she preferred appeal before the 3rd Additional Sessions Court, Vellore in C.A.No.19 of 2015. The Sessions Judge, dismissed the appeal by confirming the conviction and sentence of the trial Court. Against which, the present criminal revision case is filed.

3. Today, the petitioner produced a memorandum of understanding entered between the petitioner and the defacto complainant dated 19.05.2018. As per the understanding, the petitioner had paid a sum of Rs.3 lakhs as compensation and resolved the issue. The respondent also agreed to appear before this Court and agree for compounding the offence. Further, she undertook to give no objection for the petitioner to withdraw the conditional amount deposited during the pendency of the appeal in C.M.P.No.14464 of 2017.

4. Learned counsel for the petitioner submits that a sum of Rs.56,250/- was credited on 07.12.2017 to the credit of C.C.No.14 of 2015 on the file of Judicial Magistrate, Ambur.

5. It is seen from the cause list that name of the respondent is printed. But there is no representation on her behalf.

6. In view of the same, this Court directs the Inspector of Police, to enquire with the respondent who is the Head Master Secondary School, staying in Pallikonda, Vellore Taluk. The Inspector of Police, is directed to secure her presence and confirm about the memorandum of understanding dated 19.05.2018.

7. Post the matter on 23.01.2023.



5. When the matter was taken up for hearing today, Mr.D.Suresh, HC-1668, Pallikonda Police Station, Vellore District, was present today. The Police Officer produced the statement recorded from the respondent along with Medical Certificate. On carefully going through the same, it is seen that the respondent has received a total sum of Rs.3,00,000/- from the petitioner in the year 2018 itself and compromised the matter. Since the respondent is bedridden after a knee replacement surgery, she is not in a position to move out. Hence, the respondent has requested this Court to record the compromise.

6. In the light of the above, the offense is compounded and the judgment and order of conviction and sentence passed by the Courts below are hereby set aside. The petitioner had deposited a sum of Rs.56,200/- to the credit of C.C.No.14 of 2015, as a condition when the sentence was suspended. In view of the compromise and in view of the fact that the respondent has been paid a sum of Rs.3,00,000/- as final settlement, the petitioner in terms of the compromise is permitted to withdraw the amount deposited by him. The petitioner shall file a memo before the Trial Court in this regard and the Trial Court shall permit the petitioner to withdraw the amount deposited to the credit of CC.No.14 of 2015.



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N. ANAND VENKATESH, J.

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7.This Criminal Revision Case is disposed of in the above terms.

28.02.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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To

1.III Additional Sessions Judge,
Vellore, Tiruppur.

2.Additional District
Munsif-cum-Judicial Magistrate,
Ambur, Vellore District.

3.The Public Prosecutor
High Court, Madras.

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