VERDICTUM.IN

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF JUNE, 2022

BEFORE

THE HON'BLE Dr. JUSTICE H.B.PRABHAKARA SASTRY

CRIMINAL REVISION PETITION No.579 OF 2015 c/w. CRIMINAL REVISION PETITION No.578 OF 2015, CRIMINAL REVISION PETITION No.580 OF 2015 & CRIMINAL REVISION PETITION No.581 OF 2015

CRIMINAL REVISION PETITION No.579 OF 2015

BETWEEN:

Arun Vincent Rajkumar,
Aged about 40 years
Son of Sri A.J. Rajkumar,
R/at: No.301, 8th 'A' Main,
I Block, HRBR Layout,
Near: KIMS College,
Bangalore – 560043.

.. Petitioner

(By Sri. Satyanarayana S. Chalke, Advocate)

AND:

Smt. S. Mala,
Aged about 42 years,
W/o. Sri R. Srinivasan,
R/at: No.434, 9th 'A' Main,
I Block, HRBR Layout,
Bangalore – 560043.

.. Respondent

(By Sri.S.V. Lakshminarayana, Advocate)

****

VERDICTUM.IN

This Criminal Revision Petition is filed under Section 397 read with Section 401 of the Cr.P.C., 1973, praying to call for the entire records in Crl.Appeal No.25025/2013, the order and judgment dated 25-03-2015 by the Court of Fast Track Court-III at Mayohall Unit, Bangalore and also in C.C.No.35425/2010 passed by the learned XIV Additional Chief Metropolitan Magistrate at Mayohall, Bangalore for reviewing the said judgments in the above case and further be pleased to set aside the judgment and order dated 25-03-2015 passed by the Fast Track Court-III at Mayohall, Bangalore in Crl. Appeal No.25025/2013 and further be pleased to acquit the petitioner by setting aside the trial court judgment and order dated 07-01-2013 passed in C.C.No.35425/2010 on the file of the learned XIV Additional Chief Metropolitan Magistrate Court at Mayohall, Bangalore under Section 138 of N.I. Act and grant such other relief including the cost of this revision in the above circumstances in accordance with law in the interest of justice and equity.

CRIMINAL REVISION PETITION No.578 OF 2015

BETWEEN:

Arun Vincent Rajkumar,
Aged about 40 years
Son of Sri A.J. Rajkumar,
R/at: No.301, 8th 'A' Main,
I Block, HRBR Layout,
Near: KIMS College,
Bangalore – 560043.

.. Petitioner

(By Sri. Satyanarayana S. Chalke, Advocate)

AND:

Smt. S. Mala,
Aged about 42 years,
W/o. Sri R. Srinivasan,

VERDICTUM.IN

R/at: No.434, 9th 'A' Main,
I Block, HRBR Layout,
Bangalore – 560043.

.. Respondent

(By Sri.S.V. Lakshminarayana, Advocate)

****

This Criminal Revision Petition is filed under Section 397 read with Section 401 of the Cr.P.C., 1973, praying to call for the entire records in Crl.Appeal No.25024/2013, the order and judgment dated 25-03-2015 by the Court of Fast Track Court-III at Mayohall Unit, Bangalore and also in C.C.No.35424/2010 passed by the learned XIV Additional Chief Metropolitan Magistrate at Mayohall, Bangalore for reviewing the said judgments in the above case and further be pleased to set aside the judgment and order dated 25-03-2015 passed by the Fast Track Court-III at Mayohall, Bangalore in Crl. Appeal No.25024/2013 and further be pleased to acquit the petitioner by setting aside the trial court judgment and order dated 07-01-2013 passed in C.C.No.35424/2010 on the file of the learned XIV Additional Chief Metropolitan Magistrate Court at Mayohall, Bangalore under Section 138 of N.I. Act and grant such other relief including the cost of this revision in the above circumstances in accordance with law in the interest of justice and equity.

CRIMINAL REVISION PETITION No.580 OF 2015

BETWEEN:

Arun Vincent Rajkumar,

Aged about 40 years

Son of Sri A.J. Rajkumar,

R/at: No.301, 8th 'A' Main,

I Block, HRBR Layout,

VERDICTUM.IN

Near: KIMS College,
Bangalore – 560043.

.. Petitioner

(By Sri. Satyanarayana S. Chalke, Advocate)

AND:

Smt. S. Mala,
Aged about 42 years,
W/o. Sri R. Srinivasan,
R/at: No.434, 9th 'A' Main,
I Block, HRBR Layout,
Bangalore – 560043.

.. Respondent

(By Sri.S.V. Lakshminarayana, Advocate)

****

This Criminal Revision Petition is filed under Section 397 read with Section 401 of the Cr.P.C., 1973, praying to call for the entire records in Crl.Appeal No.25026/2013, the order and judgment dated 25-03-2015 by the Court of Fast Track Court-III at Mayohall Unit, Bangalore and also in C.C.No.35426/2010 passed by the learned XIV Additional Chief Metropolitan Magistrate at Mayohall, Bangalore for reviewing the said judgments in the above case and further be pleased to set aside the judgment and order dated 25-03-2015 passed by the Fast Track Court-III at Mayohall, Bangalore in Crl.Appeal No.25026/2013 and further be pleased to acquit the petitioner by setting aside the trial court judgment and order dated 07-01-2013 passed in C.C.No.35426/2010 on the file of the learned XIV Additional Chief Metropolitan Magistrate Court at Mayohall, Bangalore under Section 138 of N.I. Act and grant

VERDICTUM.IN

such other relief including the cost of this revision in the above circumstances in accordance with law in the interest of justice and equity.

CRIMINAL REVISION PETITION No.581 OF 2015

BETWEEN:

Arun Vincent Rajkumar,
Aged about 40 years
Son of Sri A.J. Rajkumar,
R/at: No.301, 8th 'A' Main,
I Block, HRBR Layout,
Near: KIMS College,
Bangalore – 560043.

.. Petitioner

(By Sri. Satyanarayana S. Chalke, Advocate)

AND:

Smt. S. Mala,
Aged about 42 years,
W/o. Sri R. Srinivasan,
R/at: No.434, 9th 'A' Main,
I Block, HRBR Layout,
Bangalore – 560043.

.. Respondent

(By Sri.S.V. Lakshminarayana, Advocate)

****

This Criminal Revision Petition is filed under Section 397 read with Section 401 of the Cr.P.C., 1973, praying to call for the entire records in Crl.Appeal No.25027/2013, the order and judgment dated 25-03-2015 by the Court of Fast Track Court-III at Mayohall Unit, Bangalore and also in C.C.No.35672/2010 passed by the learned XIV Additional Chief Metropolitan

VERDICTUM.IN

Magistrate at Mayohall, Bangalore for reviewing the said judgments in the above case and further be pleased to set aside the judgment and order dated 25-03-2015 passed by the Fast Track Court-III at Mayohall, Bangalore in Crl.Appeal No.25027/2013 and further be pleased to acquit the petitioner by setting aside the trial court judgment and order dated 07-01-2013 passed in C.C.No.35672/2010 on the file of the learned XIV Additional Chief Metropolitan Magistrate Court at Mayohall, Bangalore under Section 138 of N.I. Act and grant such other relief including the cost of this revision in the above circumstances in accordance with law in the interest of justice and equity.

These Criminal Revision Petitions coming on for Orders, through Physical Hearing/Video Conferencing Hearing this day, the Court made the following:

O R D E R

Learned counsels from both side in all these four matters along with their respective clients as identified by them, are physically present in the Court.

2. In all these four revision petitions, the present petitioner has challenged the confirmation of his conviction for the offence punishable under Section 138 of the

VERDICTUM.IN

Negotiable Instruments Act, 1881 (hereinafter for brevity referred to as "the N.I. Act"). The judgment of conviction and order on sentence passed by the learned XIV Additional Chief Metropolitan Magistrate, Bangalore (hereinafter for brevity referred to as "the Trial Court") in all these four matters were confirmed by the Fast Tract Court-III, Mayohall, Bangalore (hereinafter for brevity referred to as "the first appellate Court") in the Criminal Appeals preferred by the present petitioner, who was the accused in the Trial Court.

3. The respondent herein was the complainant in the Trial Court. Now both the parties have come up with memorandum of settlement in all these four matters, in which regard, they have filed separate interlocutory applications, i.e. I.A.No.2/2022 in each petition, under Section 147 of the N.I. Act read with Section 320 (6) of the Code of Criminal Procedure, 1973 (hereinafter for brevity referred to as "the Cr.P.C.").

VERDICTUM.IN

4. All these four interlocutory applications (I.A.No.2/2022) along with their annexures filed in these four revision petitions are identical in their sum and substance. In all the applications, both parties have filed joint affidavit also.

5. In the memorandum of settlement filed along with the interlocutory applications in all the four matters, both parties have carved out the terms of settlement entered into between them, the summary of which is that, the present respondent in all these four matters, by accepting a total sum of ₹9,00,000/- (Rupees Nine Lakhs only) payable to her by the present petitioner (accused), has agreed for the acquittal of the present petitioner (accused) from the alleged offence punishable under Section 138 of the N.I. Act and also has agreed for refunding of the deposits said to have been made by the petitioner herein in the Trial Court as well as in this Court.

VERDICTUM.IN

6. The learned counsels from both side have made their submissions on the lines of the interlocutory applications filed under Section 147 of the N.I. Act in all these petitions and the memorandum of settlement and have prayed for accepting the applications and permitting the parties to compromise as mentioned in the applications.

7. The enquiry made with the parties who are present physically before the Court also reveals that both parties have, with their free consent and out of their own volition, without being influenced by undue influence, duress or misrepresentation or by mistake, have entered into the terms of settlement in their best interest. Hence, there is no embargo to deny them the permission to settle the matter.

8. Accordingly, the present respondent, as a complainant, who has acknowledged the receipt of a sum of ₹3,00,000/- (Rupees Three Lakhs Only) in the form of

VERDICTUM.IN

demand draft dated 31-05-2022 said to have been given to her by the accused (petitioner herein) now, acknowledges the receipt of another sum of ₹6,00,000/- (Rupees Six Lakhs Only) from the accused (petitioner herein) in the form of another demand draft dated 31-05-2022 drawn in her favour and thus acknowledges the receipt of a total sum of ₹6,00,000/- + ₹3,00,000/- = ₹9,00,000/- towards full and final settlement of the agreed terms with respect to the present four petitions. She has further agreed that the deposits, if any, made by the present petitioner in these four petitions either in the Trial Court or in this Court be released in his favour.

9. The learned counsel for the petitioner, upon instructions from his client submits that, the graded cost payable by virtue of the judgment of the Hon'ble Apex Court in the case of ***Damodar S. Prabhu v. Sayed Babalal H*** reported in ***AIR 2010 SUPREME COURT 1907,*** which comes to a total sum of ₹81,000/- be deducted from out of

VERDICTUM.IN

the amount deposited by the petitioner herein in this Court and balance of the amount be released to him. The petitioner who is physically present also reiterates what the submission his learned counsel has made today.

10. Section 147 of the N.I. Act has made every offence punishable under the N.I. Act as compoundable. As such, there is no bar for the parties in the proceeding to compound the offence. However, at the same time, the guidelines laid down by the Hon'ble Apex Court in ***Damodar S. Prabhu's Case (supra)***, regarding imposing graded cost on litigant also is to be borne in mind. According to the said Judgment in ***Damodar S. Prabhu's Case (supra)***, if the application for compounding is made before the Sessions Court or High Court in revision or appeal, such compounding is permitted to be allowed on the common condition that the accused pays 15% of the cheque amount by way of cost. Accordingly, taking into consideration the joint application for compounding, the guidelines given by

VERDICTUM.IN

the Hon'ble Apex Court in ***Damodar S. Prabhu's case (Supra)*** and the circumstance of the case on hand, I proceed to pass the following:-

O R D E R

[i] The Joint application - I.A.No.2/2022 filed by both side under Section 147 of the Negotiable Instruments Act, 1881 read with Section 320(6) of the Code of Criminal Procedure, 1973, in all these four revision petitions are **allowed**;

[ii] The parties to the present petitions are permitted to compound the offence, however, subject to the petitioner herein (accused) paying a total sum of **₹81,000/-** (Rupees Eighty One Thousand Only) towards graded cost, in this Court, within fifteen days from today;

VERDICTUM.IN

[iii] Subject to the payment of the graded cost by the petitioner herein (accused) as ordered above, the judgments of conviction and orders on sentence dated 07-01-2013, passed by the learned XIV Additional Chief Metropolitan Magistrate at Bangalore, in C.C.No.35425/2010, C.C.No.35424/2010, C.C.No.35426/2010 and C.C.No.35672/2010, are set aside and consequently, the impugned judgments passed by the Fast Track Court-III, Mayohall, Bangalore, dated 25-03-2015, in Criminal Appeal No.25025/2013, Criminal Appeal No.25024/2013, Criminal Appeal No.25026/2013 and Criminal Appeal No.25027/2015, confirming the judgments of the Trial Court, also stand set aside;

[iv] The petitioner herein (accused) – Sri. Arun Vincent Rajkumar S/o. Sri.A.J.

VERDICTUM.IN

Rajkumar, resident of HRBR Layout, Bengaluru, who was the accused before the Trial Court is acquitted of the alleged offence punishable under Section 138 of the Negotiable Instruments Act, 1881, in all these four revision petitions;

[v] However, this order of compounding of the offence and acquittal of the petitioner herein would come into operation and would enure to the benefit of the petitioner, only after he deposits the graded cost as ordered above, in this Court and in its entirety **within fifteen days from today**. In case of non-deposit of the said amount in its entirety, today's order would not enure to the benefit of the petitioner.

[vi] The amount, if any, deposited by the petitioner herein in this Court in all these four

VERDICTUM.IN

petitions be released to him, after deducting the graded cost of ₹81,000/-, as ordered above.

[vii] The amount, if any, deposited by the petitioner herein, in the Trial Court is directed to be refunded/released in his favour, after his due identification and in accordance with law and after ensuring the payment of graded cost by the petitioner, as ordered above;

Accordingly, all these four revision petitions stand disposed of as settled between the parties amicably subject to the payment of the graded cost by the petitioner herein, as ordered above.

In view of disposal of main petitions, pending I.A.No.1/2019 for modification and I.A.No.2/2019 for direction in all these four petitions do not survive for consideration.

VERDICTUM.IN

Registry to transmit a copy of this order to both the Trial Court and also to the Sessions Judge's Court, along with their respective records, immediately.

Sd/-
JUDGE

BMV*

Not an Official Copy