

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2017

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Crl.R.C.No.1315 of 2015

K.Paramasivam

...Petitioner/Complainant

vs

P.Loganathan

... Respondent/Accused

Criminal Revision Case filed under section 397 r/w 401 of the Code of Criminal Procedure, to set aside the order and return of the petition passed by the learned Judicial Magistrate Fast Track, Ambattur, in Crl.M.P.No.4266 of 2015 in S.T.C.No.568 of 2014 dated 17.11.2015.

For Petitioner : Mr.J.C.Durairaj

O R D E R

This Criminal Revision Case has been filed against the order dated 17.11.2015 in Crl.M.P.No.4266 of 2015 in S.T.C.No.568 of 2014 on the file of the learned Judicial Magistrate, Fast Track Court, Ambattur.

2. Earlier, the petitioner has filed a private complaint for an offence under Section 138 of Negotiable Instrument Act against the respondent herein. The learned Judicial Magistrate Court cum Fast Track Court, Ambattur by its judgment dated 18.03.2015, convicted the respondent and sentenced him to undergo three months simple imprisonment and also directed the respondent to pay a sum of Rs.7,00,000/- (Rupees Seven Lakhs) as compensation under Section 357(3) Cr.P.C. The respondent did not file any appeal against the said judgment and he also undergone the sentence of three months, but he failed to pay the compensation ordered by the Court below. In the above circumstances, the petitioner filed a petition under Section 421 of Cr.P.C. for recovery of the said compensation amount. But, the Court below by its order dated 17.11.2015 returned the petition stating as follows:-

"This Court is conferred the jurisdiction over the local limits over which, the Judicial Magistrate exercising jurisdiction in respect of criminal cases arising under the 138 of N.I. Act with effect from the date of constitution of this Court and not the cases arises under other acts such as criminal procedure code. Hence, this petition returned."

Now, challenging the above said order, the present criminal revision case has been filed by the petitioner.

3. I have heard the learned counsel appearing for the petitioner and perused the materials available on record.

4. Section 421 Cr.P.C., reads as follows:-

421. Warrant for levy of fine.

(1) When an offender has been sentenced to pay a fine, the Court passing the sentence may take action for the recovery of the fine in either or both of the following ways, that is to say, it may-

(a) issue a warrant for the levy of the amount by attachment and sale of any movable property belonging to the offender;

(b) issue a warrant to the Collector of the district, authorising him to realise the amount as arrears of land revenue from the movable or immovable property, or both, of the defaulter:

Provided that, if the sentence directs that in default of payment of the fine, the offender shall be imprisoned, and if such offender has undergone the whole of such imprisonment in default, no Court shall issue such warrant unless, for special reasons to be recorded in writing, it considers it necessary so to do, or unless it has made an order for the payment of expenses or compensation out of the fine under section 357.

Reading of the above provision, it is clear that for recovery of the fine amount only the Court passing the sentence alone taken action. In the instant case, the learned Judicial Magistrate, Fast Track Court, Ambattur, only convicted the petitioner and

imposed a compensation, and hence only the above Court alone has jurisdiction to take action under Section 421 Cr.P.C. Hence, the impugned order passed by the Court below returning the application is set aside and the Court below is directed to take the petition on file and pass orders on merits in accordance with law.

5. In the above observation, the criminal revision case is disposed of.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rrg

To

1. The Judicial Magistrate,
Fast Track Court,
Ambattur.

2. The Section Officer,
Criminal Secti,
High Court, Madras.

+1cc to Mr.Durairaj, Advocate, S.R.No.25469

SKV(CO)
RS(05/05/2017)

Cr1.R.C.No.1315 of 2015

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