



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.05.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE **A.M.BASHEER AHAMED**

Crl.RC(MD)No.62 of 2017

and

Crl.MP(MD)No.609 of 2017

[Orders Reserved on 10.03.2017]

A.Selvakumar : Petitioner / Petitioner

Vs.

D.Susai Mariyan : Respondent / Respondent

Prayer: Revision is filed under Section 397 r/w 401 of Cr.P.C., praying to call for the records relating to the impugned order passed in Cr.M.P.No.180 of 2017 in C.A.No.5 of 2017, dated 12.01.2017 on the file of Principal District and Sessions Court, Virudhunagar District at Srivilliputhur and to set aside the condition imposed by the petitioner to depositing a sum of Rs.25,000/- to the credit of this case before the trial Court, as illegal.

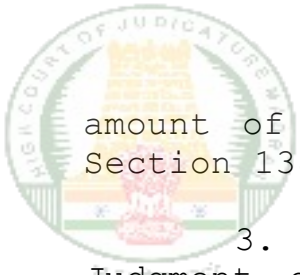
For Petitioner : Mr.M.Maharaja

For Respondent : Mr.H.Arumugam

ORDER

The present Revision is filed by the Petitioner praying to call for the records relating to the impugned order passed in Cr.M.P.No.180 of 2017 in C.A.No.5 of 2017, dated 12.01.2017, by the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur and to set aside the condition imposed on the petitioner to deposit a sum of Rs.25,000/-, to the credit of the case before the trial Court, as illegal.

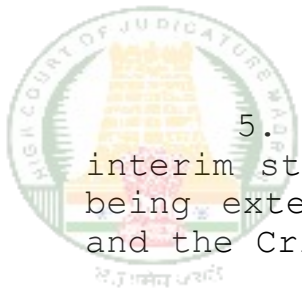
2. The petitioner herein is the appellant / accused in Crl.A.No.5 of 2017, pending on the file of the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur. The said Criminal Appeal has been preferred against the Judgment passed by the learned Judicial Magistrate, Fast Track Court, Srivilliputhur vide its Judgment, dated 26.12.2016, convicting and sentencing the petitioner / accused to undergo 2 years Simple Imprisonment and for payment of the cheque



amount of Rs.12,00,000/-, as compensation, for an offence under Section 138 of Negotiable Instruments Act.

3. At the time of filing CrI.A.No.5 of 2017 against the Judgment of C.C.No.37 of 2015, the petitioner / accused filed Cr.M.P.No.180 of 2017, seeking suspension of sentence, till the disposal of the appeal, pending on the file of the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur. The learned Principal District and Sessions Judge passed an order suspending the execution of substantial sentence of imprisonment, till the disposal of the appeal and the petitioner has been ordered to be released on bail on his depositing a sum of Rs.25,000/- to the credit of the case before the trial Court and on his executing a bond for a sum of Rs.10,000/- with two sureties for likesum each to the satisfaction of the learned Judicial Magistrate (Fast Track Court), Srivilliputhur. Prior to the suspension of sentence passed by the appellate Court, the the trial Court has granted interim suspension, under Section 389(1) of Cr.P.C., till 25.01.2017, without depositing any amount. Hence, the present petition is filed to call for the records relating to the impugned order passed in Cr.M.P.No.180 of 2017 in C.A.No.5 of 2017, dated 12.01.2017, by the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur and to set aside the condition imposed on the petitioner to deposit a sum of Rs.25,000/-, to the credit of the case before the trial Court, as illegal. Further, interim stay was granted in CrI.MP(MD)No.609 of 2017 and thereafter it is being extended till the disposal of the Revision.

4. In this case, the grievance of the petitioner is that he is required by the appellate Court to deposit a sum of Rs.25,000/-, as a condition for suspension of sentence. When considering the total amount of Rs.12,00,000/-, the cheque amount towards compensation imposed by the trial Court, there is nothing unjust or unconscionable in imposing a paltry sum of Rs.25,000/-, towards compensation, as a condition to suspend the sentence by the appellate Court. The Hon'ble Apex Court in the Judgment in Stanny Felix Pinto Vs. M/s. Jangid Builders Private Limited and Another reported in (2001 (1) SC (Cri) 620) held that while granting appeal bail, the Court has the power to impose conditions, but the condition should be reasonable and it should not be harsh. Hence, in the above stated circumstances, the impugned order directing the petitioner to deposit a sum of Rs.25,000/-, to the credit of C.C.No.37 of 2015, on the file of the learned Judicial Magistrate (Fast Track Court) Srivilliputhur, is not an illegal one, but it is reasonable. Hence, this Court is not inclined to interfere with the impugned order passed by the



5. In the result, this Revision stands dismissed. The interim stay already granted by this Court and subsequently it is being extended till the disposal of the Revision stands vacated and the Criminal Miscellaneous Petition is also dismissed.

WEB COPY

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Principal District and Sessions Judge,
Virudhunagar District
at Srivilliputhur.
2. The Judicial Magistrate,
Fast Track Court, Srivilliputhur.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
4. The Record Keeper,
Vernacular Section
Madurai Bench of Madras High Court.

+1cc to M/S.M.MAHARAJA, Advocate, Sr.No.56264

Pre-Delivery Order made in
Cr1.RC(MD)No.62 of 2017

Dated:-
10.05.2017

JM/SV/SAR 4/16.05.2017/3P/6C