

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.09.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

Crl.OP.No.21709 of 2018

and

Crl.MP.No.11874 of 2018

D.Chandrasekar

... Petitioner

Vs.

Tamilnadu Industrial Development
Corporation Ltd.,
Rep.by its Mrs.Sheela Devi
No.19-A, Rukmani Lakshmpathy Road,
Egmore, Chennai - 600 008.

.... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to set aside the order passed by the learned Principal Sessions Judge, Chennai in Crl.MP.No.10631 of 2018 dated 20.07.2018, directing the petitioner to pay a sum of Rs.17,68,478/- as condition, to condone the delay of 103 days in filing the criminal appeal by the petitioner.

For Petitioner : Mr.V.Ramamurthy

For Respondent : Mr.M.Vijayan
for M/s.King and Partridge

ORDER

This petition has been filed to set aside the order passed by the learned Principal Sessions Judge, Chennai in Crl.MP.No.10631 of 2018 dated 20.07.2018.

2. The learned counsel for the petitioner has submitted that the respondent has filed a private complaint for the offence under Section 138 of the Negotiable Instruments Act against the petitioner herein and based on the same, the learned Metropolitan Magistrate [Fast Track Court -II] has taken the case on file in C.C.No.15108 of 2014. After full trial, the learned Metropolitan Magistrate has convicted the petitioner to undergo simple imprisonment for one year and also directed the petitioner to pay a sum of Rs.3,53,69,576/- to the respondent herein as compensation and in default, the petitioner should undergo simple imprisonment for further period of three months. He further submitted that as against the said judgement of conviction and sentence, the petitioner herein has filed an

appeal with a petition in CrI.MP.No.10631 of 2018 to condone the delay of 103 days and the learned Principal Sessions Judge, Chennai, has passed an order on 20.07.2018 that the said petition will be allowed on a condition that the petitioner shall deposit 5% of the compensation amount before the Trial Court on or before 30.07.2018, failing which, the petition shall stand dismissed. He further submitted that 5% of compensation amount would come to Rs.17,68,478/- . He further submitted that since the petitioner is in jail, he is not able to pay the said amount and also the said condition is an onerous one and therefore, he requests to set aside the said Order.

3. The learned counsel for the respondent has submitted that since the petitioner has not complied with the aforesaid condition, the Appellate Court has dismissed the petition to condone the delay in filing appeal and hence nothing survives in this petition.

4. Admittedly, the learned Principal Sessions Judge has passed a conditional order on 20.07.2018 that the petitioner has to deposit 5% of compensation amount on or before 30.07.2018 failing which the delay excuse petition shall stand dismissed. So, the said order is the main order. The final order is only a consequential order. So, the petitioner is entitled to challenge the main order.

5. According to the petitioner, the condition imposed by the Appellate Court is onerous one and further the petitioner is in jail and hence, he is not able to comply with the condition within the time fixed by the Appellate Court.

6. Considering the aforesaid submissions, this Court is of the view that the condition imposed by the Appellate Court appears to be onerous one and therefore, this Court is inclined to modify the condition to the effect that instead of depositing 5% of compensation, the petitioner is directed to deposit 2% of the compensation amount before the Trial Court and on production of receipt with regard to the deposit of the aforesaid compensation, the Appellate Court has to condone the delay in filing the appeal and entertain the appeal.

7. With the aforesaid observations, this petition is disposed of. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vv

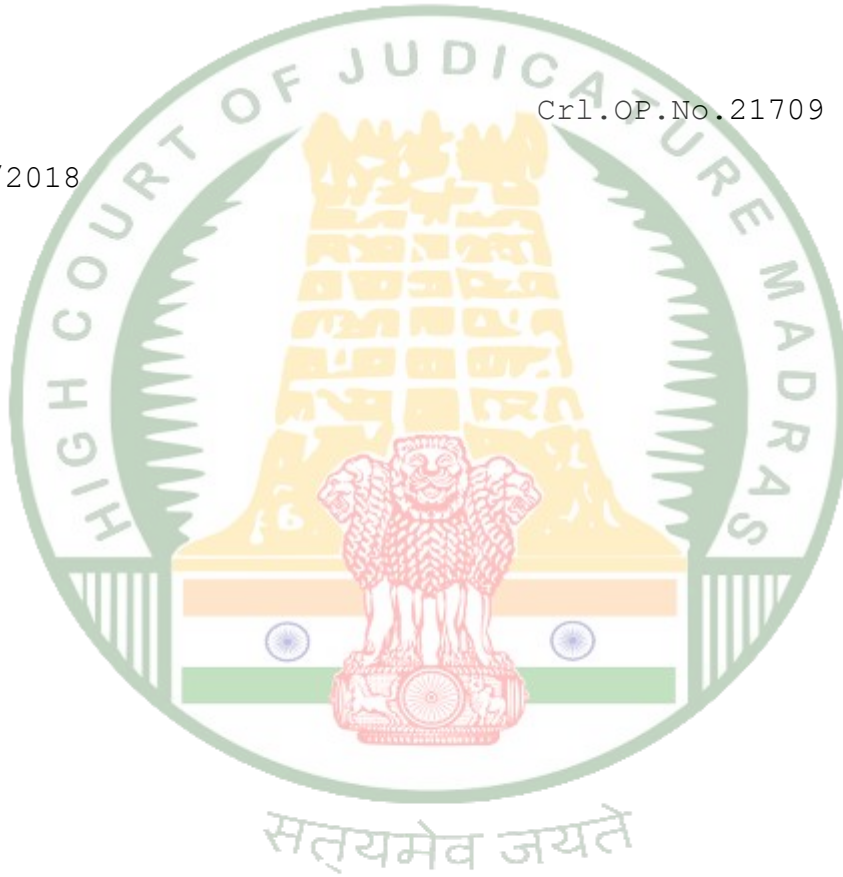
To

1. The Principal Sessions Judge,
Chennai
2. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.V.Ramamurthy, Advocate, S.R.No.64350
+lcc to Mr.King & Partridge, Advocate, S.R.No.64395

Crl.OP.No.21709 of 2018

rrs 18/09/2018



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