

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.07.2018

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CRL.O.P.No.16848 of 2018
and Crl.M.P.No.8703 of 2018

S.Pandurangan .. Petitioner

Vs

B.C.Kishore Kumar .. Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C., praying to set aside the adjudication order in C.C.No.4298 of 2012 dated 21.05.2018 in so far it relates to directing the petitioner to pay 10% of the cheque amount as interim compensation to the respondent complainant.

For Petitioner : Mr.K.M.Balaaji

O R D E R

This petition has been filed praying to set aside the adjudication order dated 21.05.2018 passed by the learned FTC-III Metropolitan Magistrate, Saidapet in C.C.No.4298 of 2012.

2.Heard the learned counsel for the petitioner and perused the materials placed on record.

3.The petitioner is accused in C.C.No.4298 of 2012 before the learned FTC-III Metropolitan Magistrate, Saidapet, Chennai. It appears that NBW was issued against the petitioner and when the petitioner filed an application to recall the warrant, the trial Court has passed the following order on 21.05.2018 :

"Accused present. Filed advanced hearing petition surrender petition. 70[2] NBW recalled. Accused is directed to pay 10% of cheque amount as Interim compensation to complainant on 18.7.18. For DWS call on 18.07.18"

Aggrieved by the said order, the accused is before this Court.

4.Mr.Balaaji, learned counsel for the accused submitted that the accused is willing to participate in the trial and complete the same expeditiously. But, whereas, the order of the trial

Court directing payment of 10% of the cheque amount to the de facto complainant will cause undue prejudice.

5.This Court gave its anxious consideration to the submissions made by Mr.Balaaji. The fact remains that the prosecution is of the year 2012 and till 2018, the case has not been completed. Admittedly, the accused did not appear before the trial Court, on account of which, NBW was issued against him. For recalling the NBW, the Magistrate has imposed the aforesaid condition.

6.This Court does not find any serious infirmity in the said condition. But, however, this Court is of the view that 10% amount cannot be disbursed to the complainant pending trial. Under such circumstances, the order dated 21.05.2018 passed by the FTC-III Metropolitan Magistrate, Saidapet in C.C.No.4298 of 2012 is modified to the effect that the petitioner shall deposit 5% of the cheque amount within four weeks from the date of receipt of a copy of this order. On such deposit, the amount shall be re-deposited in a fixed deposit account in any nationalised bank, so that, the amount accrues interest. The petitioner shall surrender before the trial Court within two weeks from the date of receipt of a copy of this order and shall file an application under Section 436 Cr.P.C. for bail. The trial Court shall release him on bail, on he executing a bond for Rs.10,000/- with two common sureties. If thereafter, the petitioner/accused absconds, a fresh FIR can be registered against him under Section 229-A IPC.

With the above direction, this petition is closed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

gya
To

The FTC III Metropolitan Magistrate,
Saidapet, Chennai - 600 015

+lcc to Mr.K.M.Balaaji, Advocate, S.R.No.42385

CRL.O.P.No.16848 of 2018

RSK(Co)
CS/17/07/18