

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2018

CORAM :

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

CRL.O.P.No.23137 of 2018 and
Crl.M.P.No.12913 of 2018

Pradeep Ranganathan

.. Petitioner

Vs

Industrial Venture Capital Ltd.,
Vairams No.112, Thiagaraya Road,
T.Nagar, Chennai - 600 017.
Presently it's Regd. Office at
No.10, R-Block, II Floor,
Prem Nagar Colony,
South Boag Road,
T.Nagar, Chennai 600 017.

.. Respondent

Criminal Original Petition filed under Section 482 Cr.P.C., praying to call for the records and set aside the order passed in Crl.M.P.No.463/2018 in Crl.M.P.No.209/2018 in C.A.No.39 of 2017, dated 11.09.2018, by the learned XVII Additional City Civil Court, Chennai.

For Petitioner : Mr.R.Rajaguru

For Respondent : Mr.Anantha Krishnan

O R D E R

This Criminal Original Petition has been filed to call for the records and set aside the order in Crl.M.P.No.463 of 2018 in Crl.M.P.No.209 of 2018 in C.A.No.39 of 2017, dated 11.09.2018, passed by the learned XVII Additional Judge, XVII Additional City Civil Court, Chennai.

2. For the sake of convenience, the parties will be referred to, as accused and complainant.

3. The accused was convicted in C.C.No.2594 of 2004 on 24.01.2017 by the Fast Track Court-III, Saidapet, Chennai, under Section 138 of Negotiable Instruments Act and was sentenced to undergo six months simple imprisonment. The accused filed Criminal Appeal in C.A.No.39 of 2017 before the Sessions Court and in Crl.M.P.No.3448 of 2017, he prayed for suspension of sentence and bail. The learned Principal Sessions Judge, Chennai, suspended the sentence of imprisonment by an order dated 22.02.2017, on condition that

the accused should deposit 10% of the cheque amount being Rs.5,98,740/-, within one month. Challenging the order passed by the Sessions Court, the accused filed Criminal Revision Case in C.R.C.No.483 of 2017, which was dismissed by this Court on 10.04.2017, holding that the condition imposed by the Sessions Court for suspending the sentence cannot be said to be unreasonable. Thereafter, the accused filed Crl.M.P.Nos.221 of 2017 and 222 of 2017 to implead the Official Liquidator and to stay the earlier order directing the accused to deposit 10% of the cheque amount. The two petitions were dismissed by the Sessions Court on 14.08.2018. The complainant filed Crl.M.P.No.209 of 2018 in Crl.M.P.4331 of 2017 in C.A.No.39 of 2017 for cancellation of bail on the ground that, the accused had failed to deposit the said sum. The Sessions Court dismissed the Crl.M.P.No.209 of 2018, however, gave two weeks time, to the accused to deposit Rs.5,98,740/-. Though, the accused got a breather from the Sessions Court, he did not deposit the amount within two weeks. However, the accused filed Crl.M.P.No.463 of 2018 for reduction of the amount and for extension of time, which was dismissed by the Sessions Court on 11.09.2018, challenging which, the accused is before this Court.

4. Heard Mr.R.Rajaguru, learned counsel for the accused and Mr.Anantha Krishnan, learned counsel for the complainant.

5. Mr.R.Rajaguru submitted that the impugned cheque was issued by Neptune Inflatables Ltd. (A1) and the trial Court had directed A1 to pay the cheque amount as compensation. He submitted that the trial Court had only sentenced Pradeep Ranganathan (A2) to undergo six months imprisonment, but had not issued any directions to pay compensation. He further contended that Neptune Inflatables Ltd. (A1) was wound up and the Official Assignee has taken over the assets. Therefore, it will be a travesty of justice to direct Pradeep Ranganathan (A2) to make the payment.

6. Per contra, the learned counsel appearing for the complainant refuted the contentions.

7. On a perusal of the facts obtaining in this case, it is seen that the Sessions Court had imposed the condition on A2 and A3 to deposit 10% of the cheque amount, for suspending the sentence. This should not be confused with the order passed by the trial Court, directing A1 to pay the cheque amount as compensation to the complainant. The accused challenged the order in Crl.R.C.No.483 of 2017 and the same was dismissed by this Court on 10.04.2017. Therefore, neither this Court, nor the Sessions Court can modify the order directing the accused to deposit Rs.5,98,740/-, in the light of the bar under Section 362 Cr.P.C.

8. Hence, this Criminal Original Petition is dismissed. However, two weeks time is extended from the date of receipt

of a copy of this order for the petitioner/accused to deposit Rs.5,98,740/-, as directed by the Sessions Court and confirmed by this Court in Crl.R.C.No.483 of 2017. There cannot be any further extension of time, since already enough time has been given to the petitioner/accused. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-IX)

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Sub Assistant Registrar

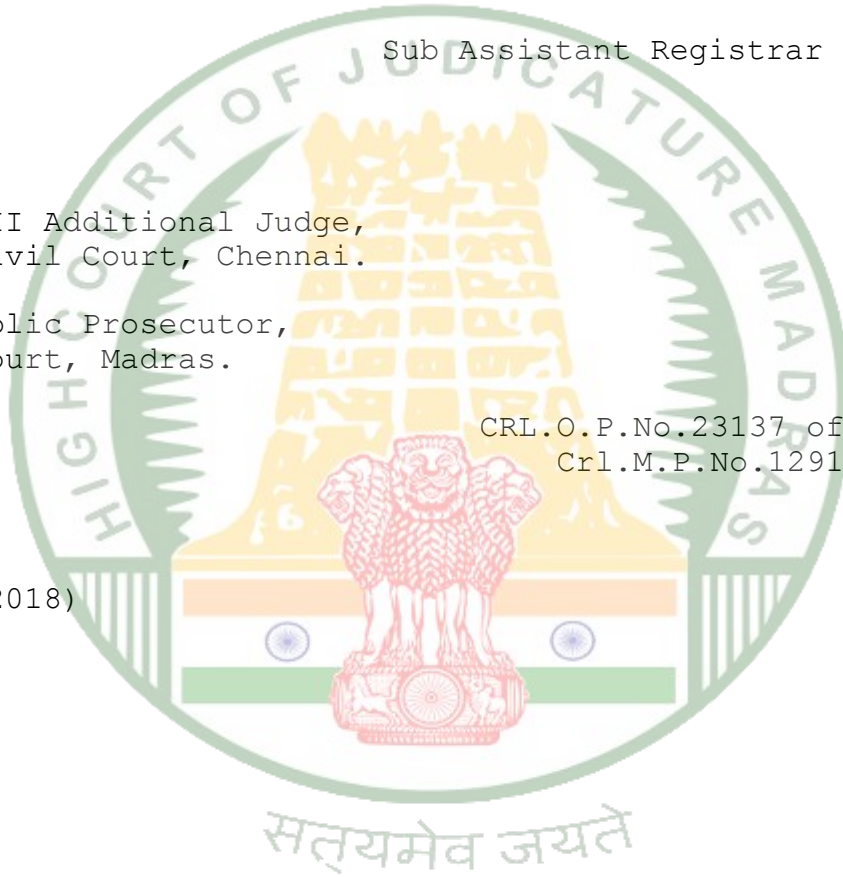
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To

1. The XVII Additional Judge,
City Civil Court, Chennai.
2. The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.23137 of 2018 and
Crl.M.P.No.12913 of 2018

NMI (CO)
EU(24/10/2018)



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