



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE: 25.10.2018

CORAM:

WEB COPY

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C.(MD)No.588 of 2018

M.P.Sivaramakrishnan

.. Petitioner/ Accused No.2

Vs.

C.Ashok

.. Respondent/Complainant

Prayer: Criminal Revision Petitions filed under Section 397 r/w 401 Cr.P.C., to call for the records in Cr.M.P.No.4474 of 2018 dated 11.10.2018 pending in C.A.No.127 of 2018 on the file of the learned Principal Sessions Judge, Tiruchirappalli and set aside the same with regard to the condition of deposit of Rs.7,00,000/- as against this petitioner.

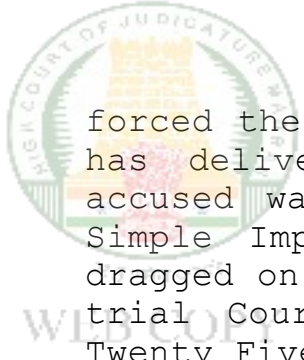
For Petitioner : Mr.N.Mohideen Basha

O R D E R

This revision petition has been filed by the accused in S.T.C.No.768 of 2015 on the file of the learned Judicial Magistrate No.I, Tiruchirappalli, where he has been tried for offence under Section 138 of Negotiable Instruments Act.

2. The sum and substance of the complaint is that on 12.11.2012, the revision petitioner issued a cheque of Rs.12,50,000/- (Rupees Twelve Lakhs and Fifty Thousand only) in favour of one Ashok. When the same was presented for collection, it was returned for 'insufficiency of funds'. Hence, a complaint was filed and the trial Court has taken cognizance of the offence and tried the accused.

3. When the matter was listed for cross examination of P.W.1/complainant, the petitioner/accused has taken adjournments for more than nine occasions. Thereafter, when the matter was listed for questioning the accused, again, he has taken adjournments for nearly ten times. He has further filed an application for recall witnesses and took sufficient adjournments, but had not co-operated with the progress of the trial, which has



forced the trial Court to close the trial and proceed further. It has delivered judgment based on the materials available. The accused was found guilty and was sentenced to undergo one year Simple Imprisonment. Observing that, the accused has purposely dragged on the proceedings for more than five years, for which the trial Court has imposed compensation of Rs.25,00,000/- (Rupees Twenty Five Lakhs only) which is twice the amount of the cheque.

4. Aggrieved by that, the accused has preferred appeal before the Principal and District Sessions Judge, Tiruchirappalli. He sought for suspension of sentence pending appeal. The Lower Appellate Court after considering the contentions raised by the accused/appellant had allowed the petition on condition. The sentence was suspended till the disposal of the Appeal on condition that the petitioner shall deposit a sum of Rs.7,00,000/- on or before 29.10.2018 before the lower Court and on his executing a bond of Rs.10,000/- with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, No.II, Trichy.

5. The present Revision petition is directed against the condition imposed by the lower Appellate Court, for suspending the sentence. Learned counsel appearing for the revision petitioner would submit that he has a very fair chance of success in the Appeal and for the very same debt, the complainant has already filed a suit and got a decree and attached the residential premises of the accused. Therefore, it is not necessary for him to deposit Rs.7,00,000/- (Rupees Seven Lakhs only) as a condition to get bail.

6. This Court is unable to entertain such a submission for the simple reason that if the accused had good defence, he should have contested the trial and should have proved his innocence. Having failed to prove his innocence and also by dragging the proceedings for more than five years, he has now preferred Appeal.

7. In the Appeal filed in C.A.No.127 of 2018 on the file of Principal Sessions Court, Tiruchirappalli, the lower Appellate Court after considering the contentions of the accused and on perusal of the records, has rightly imposed the condition to deposit Rs.7,00,000/-. Taking note of the fact that the cheque is Rs.12,50,000/-. Issued as early as on 12.11.2012. The trial Court ordered for a compensation of Rs.25,00,000/- which is twice the cheque amount. So the pre-condition to deposit Rs.7,00,000/- does not appears to be on a higher side. Unless and until the revision petitioner is directed to pay some substantial amount, he will not cooperate for the disposal of the Appeal. That is the reason why the learned court has imposed the condition to deposit Rs.7,00,000/-

8. This Court finds no error in the said condition imposed by



the trial Court. Hence, this Criminal revision petition is dismissed.

9. The learned counsel appearing for the revision petitioner submits that the time to deposit Rs.7,00,000/- expires on 29.10.2018. The revision petitioner is not in a position to mobilise the amount of Rs.7,00,000/- by 29.10.2018, so seeks extension of time to comply the condition. Accordingly, time for depositing Rs.7,00,000/- is extended till **15.11.2018**.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar (CS-II)

To

The Principal Sessions Judge,
Tiruchirappalli.

+ 1 CC TO Mr.N.MOHAIDEEN BASHA, ADVOCATE IN SR No. 91994

STS
TE/SV/SAR-2 : 01/11/2018 : 3P/3C

Order in
Crl.R.C. (MD) No.588 of 2018
25.10.2018