



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.RC.No. 1272 of 2010

Sree Kamal Release
Rep. by its Proprietor
Kalaiselvan

...Petitioner/Appellant/Accused

Vs.

1. P.N.Sundarajan

2. Shanthi Sundarajan ...Respondents/Respondent/complainant

Prayer: Petition filed under Section 397 r/w of 101 Cr.P.C., praying to set aside the order dated 12.07.2010 made in C.A.No.118/2009 on the file of Additional District and Sessions Judge, (Fast Track Court II) Gobichettipalayam confirming the judgment dated 22.06.2009 and made in C.C.No.384/2006 on the file of the learned Judicial Magistrate No.I, Gobichettipalayam.

For Petitioner : Mr. M.N.Balakrishnan

For Respondents : Mr.S.Kaithamalai Kumaran

ORDER

The present revision has been filed by the petitioner/accused against the dismissal of Crl.A.No.118/2009 vide impugned judgment dated 12.07.2010 by the learned Additional District and Sessions Judge, Fast Track Court No.2, Gobichettipalayam, confirming the judgment of the learned judicial Magistrate No.1, Gobichettipalayam, dated 22.06.2009 in CC.No.384/2006, finding the petitioner/accused guilty for the commission of the offence under Section 138 of Negotiable Instruments Act and convicting and sentencing him to undergo 2 years of simple imprisonment and to pay a fine of Rs.5000/- with a default condition, to undergo three months simple imprisonment.

2. On an earlier occasion, this Court vide order dated 24.06.2019 in Crl.RC.No.1272/2010, directed the revision petitioner herein, to pay the cheque amount viz., Rs10,00,000/- as agreed between the parties, on or before 31.10.2019, and if the said amount is not paid within the



specified period, the petitioner/accused shall surrender before the Trial Court to undergo the period of sentence or else the trial Court shall secure the petitioner /accused and commit him to custody to undergo the period of sentence.

WEB COPY

3. When the matter is taken up for hearing, it is brought to the notice of this Court that the complainant did not comply with the condition and, therefore, the legal heirs of the complainant, are necessary parties and they have been impleaded as party respondents. It is further submitted by the learned counsel for the petitioner that the legal heirs of the complainant are female members and that they want only cash settlement, which the petitioner is not able to mobilize as he is unable to sell his family property to settle the said amount. Therefore, in fine, it is accepted by the petitioner that he has not complied with the condition imposed on him with regard to payment of the cheque amount.

4. In the above circumstances, as already directed vide order dated 24.6.2019, the condition imposed having not been complied with, the trial court is directed to take steps to secure the presence of the accused/petitioner, if he does not surrender on his own, and commit him to prison to undergo the remaining period of sentence imposed on him.

5. The criminal revision stands dismissed with the aforesaid observation and direction.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

jrs

To

1. The Additional District and Sessions Judge,
(Fast Track Court II) Gobichettipalayam.
2. The Judicial Magistrate No.I,
Gobichettipalayam.
3. do Thro The Chief Judicial Magistrate,
Erode.

Copy To

1. The Secretary,
District Legal Services Authority,
Erode.



2.The Section Officer,
Criminal Section,
High Court, Madras.

WEB COPY

Cr1.RC.No. 1272 of 2010

GJ (CO)
GN (15/07/2020)