

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN
CRL.OP.No.9173 of 2018

S.V.S.Ramaprakash @ Prakash. M

... Petitioner

Vs.

1.The Deputy Commissioner of Police,
Chindathiripet,
Chennai - 600 002.

2.State Rep. by S.I. of Police,
F2, Egmore Police Station,
Chennai - 600 008.

3.Mrs.Nirmala Mehta

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to direct the 1st respondent to execute the judgment of conviction and sentence passed, as against the 2nd respondent, in C.C.1934 of 2006 dated 15/02/2006, on the file Fast Track Court, George Town, Chennai as confirmed in C.A. 48 of 2016, dated 26-10-2016, on the file of XVII Additional City Civil Court at Chennai and in Crl.R.C.1579 of 2016 dated 24-04-2017, before this Court.

For Petitioner : Mr.D.J.Venkatesan

For Respondents: Mr.M.Mohamed Riyaz for R1 & R2
Additional Public Prosecutor

O R D E R

The Criminal Original Petition has been filed to direct the 1st respondent to execute the judgment of conviction and sentence passed, as against the 2nd respondent, in C.C.1934 of 2006 dated 15.02.2006, on the file Fast Track Court, George Town, Chennai as confirmed in C.A.No.48 of 2016 dated 26.10.2016, on the file of XVII Additional City Civil Court at Chennai and in Crl.R.C.No.1579 of 2016 dated 24.04.2017, before this Court.

2. Heard, Mr.D.J.Venkatesan, learned counsel appearing for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the respondents 1 and 2 and perused the materials available on record.

3. The learned counsel for the petitioner submitted that the petitioner filed a complaint in C.C.No.1934 of 2006, before the George Town Court, Chennai, against the third respondent/accused herein, under Section 138 of the Negotiable Instrument Act for dishonouring the cheque issued in favour of the petitioner/ complainant for an amount of Rs.13,98,598.00. The trial Court was pleased to allow the said C.C.No.1934 of 2006 dated 15.02.2016 and convicted the respondent/accused to undergo two years simple imprisonment and also directed the respondent/accused to pay the above said cheque as fine, failing which to undergo further six months simple imprisonment. Aggrieved by the above conviction, the respondent/accused preferred appeal in C.A.No.48 of 2016, before the learned XVII Additional City Civil Judge, Chennai. The above C.A.No.48 of 2016, also ended up in favour of the petitioner/complainant and the Lower Courts' judgment was confirmed and the conviction and punishment was upheld by the First Appellate Court as well.

4. The learned counsel for the petitioner submitted that aggrieved by the above judgment in C.A.No.48 of 2016, the respondent/accused preferred revision before this Court in Crl.R.C.No.1579 of 2016, the same also ended in favour of the petitioner/complainant, and the First Appellate Court and the Lower Court judgments were confirmed and the conviction and fine amount was upheld by dismissing the above criminal revision by this Court, by an order dated 24.04.2017 and the judgment had attained finality.

5. According to him, by virtue of the judgment in Crl.O.P, the petitioner filed a memo dated 20.07.2017, to that effect before the Fast Track Court, George Town at Chennai and to execute the warrant and on verification, the petitioner was informed that the warrant was also served to the first respondent. But, unfortunately even after the lapse of more than eight months, the first respondent has not arrested the second respondent/accused till date. It may not be out of place to mention that the second respondent has not paid the fine amount as well despite the order passed by this Court, directing to pay the said cheque amount.

6.The learned counsel for the petitioner further submitted that the petitioner is fighting for justice since from 2006, after awaiting for so long period, the petitioner could not meet the ends of justice till date, despite the order passed by a Court of law in favour of the petitioner. According to him, the petitioner made a representation letter dated 26.10.2017 to the second respondent, stating all the above facts. But, till date, no action has been taken and all the efforts taken by the petitioner to meet the ends of justice went in vain and all his remedy were exhausted, left with no other option or any other alternative remedy except to approach this Court for redressal.

7.Considering the above facts and circumstances, the second respondent is directed to execute the warrant issued as against the third respondent herein, Pursuant to the conviction order dated 15.02.2016 in C.C.No.1934 of 2006, on the file of the Fast Track Court, George Town, Chennai and the same has been confirmed in C.A.No.48 of 2016 dated 26-10-2016, on the file of the XVII Additional City Civil Court at Chennai and CrI.R.C.No.1579 of dated 24.04.2017 before this Court, within a period of four weeks from the date of receipt of a copy of this order.

8.With the above observation and direction, the Criminal Original Petition is disposed of.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Deputy Commissioner of Police,
Chindathiripet, Chennai - 600 002.

2.The Sub-Inspector of Police,
F2, Egmore Police Station, Chennai - 600 008.

3.The Public Prosecutor, High Court, Chennai - 104.
+3ccs to Mr.D.J.Venkatesan , Advocate SR.No. 23270

CRL.OP.No.9173 of 2018

A.SK(27/05/2019)