

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2019

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.RC.No.834 of 2019
and
Crl.MP.No.12382 of 2019

1.M/s.Arunselvan Logistics Pvt. Ltd.,
Rep. by Arun Padmanabhan
No.10, 1st Cross Street, RBI Colony
Jayanagar, Bangalore - 560 011.

2.Arun Padmanabhan
No.10, 1st Cross Street,
RBI Colony, Jayanagar,
Bangalore - 560 011.

... Petitioners/
Petitioners/Appellants

Vs

Girish Mittal

... Respondent/
Respondent/Respondent

Criminal revision preferred under Section 397 read with Section 401 of Cr.P.C. seeking to call for the records in Crl.M.P.No.11443 of 2019 in C.A.No.234 of 2019 on the file of the Principal Sessions Judge, City Civil Court, Chennai, now transferred to the V Additional Sessions Judge, City Civil Court, Chennai and to set aside the order dated 24.06.2019.

For Petitioners : Mr.M.Arun

O R D E R

This Criminal Revision has been preferred to call for the records in Crl.M.P.No.11443 of 2019 in C.A.No.234 of 2019 on the file of the Principal Sessions Judge, City Civil Court, Chennai, now transferred to the V Additional Sessions Judge, City Civil Court, Chennai and to set aside the order dated 24.06.2019.

2. The petitioners were convicted by the Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai-1, in C.C.No.1277 of 2016 on 15.04.2019 for the offence under Section

138 of the Negotiable Instruments Act and the second petitioner was sentenced to undergo ten months simple imprisonment and directed to pay a sum of Rs.14,50,000/- being the cheque amount as compensation to the complainant with interest at the rate of 9% per annum from the date of dishonour. Challenging the conviction and sentence, the petitioner preferred Crl.A.No.234 of 2019 before the Court of Sessions and filed Crl.MP.No.11443 of 2019 in Crl.A.No.234 of 2019 seeking suspension of sentence and bail. The learned Principal Sessions Judge, City Civil Court, Chennai, passed an order in Crl.MP.No.11443 of 2019 on 24.06.2019 suspending the sentence and releasing the second petitioner on bail on condition that the second petitioner should deposit 20% of the cheque amount. Challenging the aforesaid condition, the petitioner has filed the present Criminal Revision case.

3. Heard Mr.M.Arun, learned counsel for the petitioner, who submitted that the amendment to the Negotiable Instruments Act, came into force on 01.08.2018, under which, the Appellate Court was required to call upon the accused to deposit 20% of the cheque amount as a condition for suspension of sentence and bail. The said amendment will not apply to this case, since the prosecution in C.C.No.1277 of 2016 was prior to the said amendment.

4. This Court is unable to countenance the aforesaid submissions because the amendment of the Negotiable Instruments Act, would apply to all the appeals that are filed after 01.08.2018 and there is no material to infer that the said amendment will not apply to the prosecution that was initiated before the trial Court prior to 01.08.2018. That apart, the petitioner was convicted by the trial Court on 15.04.2019, after the said amendment came into force in the Negotiable Instruments Act. Hence, the order passed by the Principal Sessions Judge, City Civil Court, Chennai, cannot be said to be illegal or perverse warranting interference by this Court.

5. Accordingly, this Criminal Revision case fails and the same is dismissed.

6. However, the learned counsel for the petitioner prayed for extension of time for depositing the said amount.

7. It is seen that by order dated 24.06.2019, the Principal Sessions Judge, Chennai, has granted 60 days time for depositing 20% of the cheque amount, which expired on 24.08.2019. Hence, 30 days time is extended from the date of receipt of a copy of this order to deposit 20% of the cheque amount to the credit of C.C.No.1277 of 2016 before the trial Court. On the failure of the petitioner depositing the said amount, suspension of

sentence and bail granted to the petitioner by the Principal Sessions Judge, City Civil Court, Chennai, in Crl.MP.No.11443 of 2019 on 24.06.2019 stands automatically cancelled and it is open to the trial Court to take the petitioner into custody for undergoing the sentence. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

mk

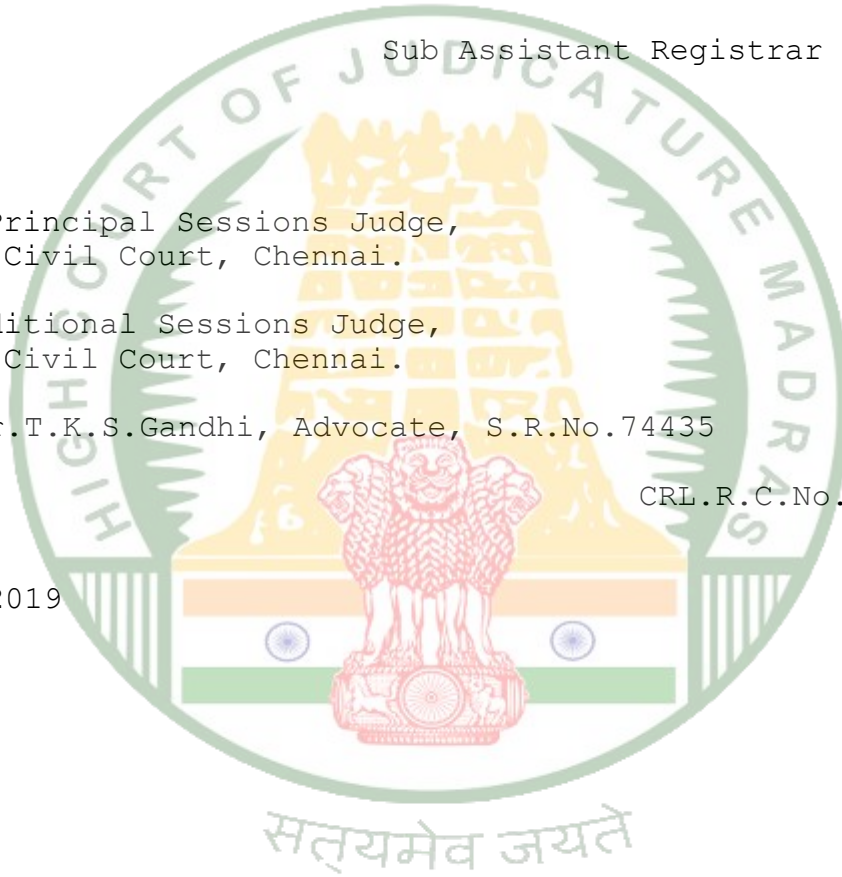
To

1. The Principal Sessions Judge,
City Civil Court, Chennai.
2. V Additional Sessions Judge,
City Civil Court, Chennai.

+lcc to Mr.T.K.S.Gandhi, Advocate, S.R.No.74435

CRL.R.C.No.834 of 2019

VBA(CO)
CS/09/10/2019



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