

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.10.2019

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.1151 of 2019

C.Murugesan ... Petitioner/Complainant
Vs.
M.Chinnamuthu ... Respondent/Accused

PRAYER: The Criminal Revision has been filed, under Section 397 read with 401 of Cr.P.C., seeking to set aside the order dated 13.08.2019 made in Crl.M.P.No.1831 of 2019 in STC.No.600 of 2018, on the file of the learned Judicial Magistrate (Fast Track Court No.II), Erode.

For Petitioner : Mr.M.Guruprasad

For Respondent : No appearance

ORDER

- 1.This Criminal Revision Petition has been filed by the petitioner/Complainant, against the order dated 13.08.2019 made in Crl.M.P.No.1831 of 2019 in STC.No.600 of 2018, on the file of the learned Judicial Magistrate (Fast Track Court No.II), Erode.
- 2.The facts of the case are that the Crl.M.P.No.1831 of 2019 had been filed by the petitioner/complainant under Section 143 A (1) of the Negotiable Instruments Act, to direct the respondent/accused to pay interim compensation of 20% of the cheque amount, pending the trial.
- 3.The respondent accused had filed a counter, wherein it had been stated that the accused is in poor financial condition and that he has got a good case on merits and is genuinely contesting the case and that if the petition is allowed, the accused would suffer irreparable loss and hardship.
- 4.The Trial Court, on perusal of records and after hearing both sides had held that the present stage of the case is that the complainant side evidence was closed after examining P.W.1 and that the case was posted for defence side evidence and that the accused has also filed a petition under Section 311 of Cr.P.C., to recall P.W.1, for cross examination in Crl.M.P.No.4349/2019 and that in the said Criminal Miscellaneous Petition, the complainant has made an endorsement that he is not filing any counter and the same was allowed on 01.08.2019. Further, the Trial Court finding that the case is at fag end of completing the trial and the

- case would be finalised and the judgment will be pronounced, the petition is unwarranted, had dismissed the petition. As against the same, the present revision has been filed.
5. This Court heard the learned counsel for the petitioner.
6. The learned counsel for the petitioner would submit that Section 143 A (1) of the Negotiable Instrument Act has been introduced, creating power to the Trial Judge, to direct the accused to pay interim compensation of 20% of the cheque amount and that notwithstanding the power of criminal procedure, the Court trying for the offence under Section 138, may order the drawer of the cheque to pay interim compensation to the complainant, in summary trial or a summons case, where he pleads not guilty to the accusation made in the complaints and in any other case, upon framing charges and would submit that though the powers are available, the learned Magistrate erred to exercise the power in awarding interim compensation.
7. This Court perused the records and the order of dismissal passed by the learned Trial Judge.
8. As per the complaint, the cheque is dated 01.07.2018 and it had been presented for collection on 27.08.2018 and dishonored on 27.08.2018, Section 143 A was introduced on 01.09.2019.
9. In AIR 2019 SC 3817 reported in G.J.Raja v. Tejraj Surana, it was held as under:
"24. In the ultimate analysis, we hold Section 143 A to be prospective in operation and that the provisions of said Section 143 A can be applied or invoked only in cases where the offence under Section 138 of the Act was committed after the introduction of said Section 143 A in the statute book."
10. As per the above said judgment of the Hon'ble Supreme Court, operation of Section 143 A of the Negotiable Instrument Act is prospective in nature and it cannot be given retrospective effect in respect of offence committed prior to 01.09.2018, on which date, the particular amendment to Section 143 A was notified. In this case, the cheque had been issued and presented for collection prior to 01.09.2018. Further, the Trial Judge, finding that the accused has come at the fag end, had dismissed the petition.
11. In view of the above and in the light of the decisions stated supra I do not find any infirmity in the order passed by the Trial Judge. Accordingly, the criminal revision is dismissed.

Sd/-

Assistant Registrar (CO)

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Sub Assistant Registrar

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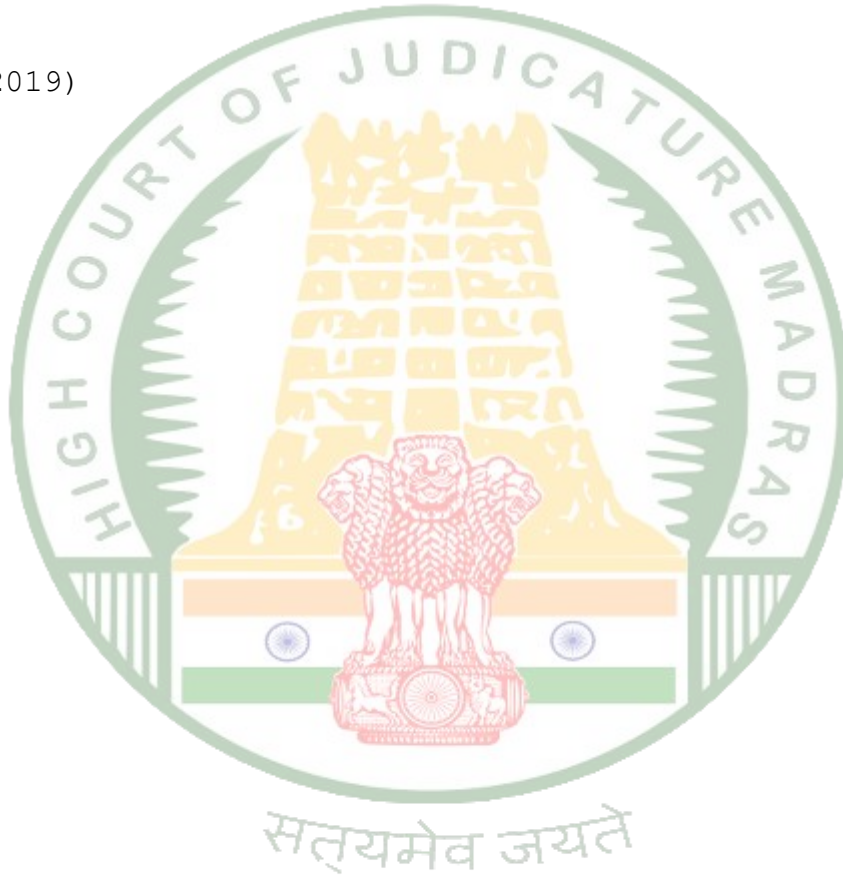
1.The Judicial Magistrate (Fast Track Court No.II), Erode.

2.Do Thro The Chief Judicial Magistrate,
Erode.

+1cc to Mr.M.Guruprasad, Advocate, S.R.No. 90044

Cr1.R.C.No.1151 of 2019

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