



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 25.07.2019

CORAM

THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

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Crl.RC(MD)No.125 of 2019
and
Crl.M.P(MD)No.2187 of 2019

V.Madasamy : Petitioner/Petitioner/ Appellant

Vs.

Selvam : Respondent/Respondent/ Respondent

Prayer: Criminal Revision has been filed under Section 397 r/w 401 of the Criminal Procedure Code, against the conditional order passed in Cr.M.P.o.215 of 2019 in C.A.No.10 of 2019, dated 11.01.2019 on the file of the Principal District and Sessions Judge, Virudhunagar District @ Srivilliputhur, in STC No.1841 of 2015 on the file of the Judicial Magistrate No.1, Sivakasi.

For Appellant : Mr.J.Jeyakumaran

For Respondent : Mr.S.Kumaravelu

J U D G M E N T

This Criminal Revision is directed against the conditional order passed in Cr.M.P.o.215 of 2019 in C.A.No.10 of 2019, dated 11.01.2019 on the file of the Principal District and Sessions Judge, Virudhunagar District @ Srivilliputhur, in STC No.1841 of 2015 on the file of the Judicial Magistrate No.1, Sivakasi.

2.The respondent has filed a private complaint before the Judicial Magistrate No.1, Sivakasi, in STC No.1841 of 2015 under Section 138 of Negotiable Instruments Act against the petitioner stating that the petitioner/accused borrowed a sum of Rs.3,00,000/- from the respondent and issued a post dated cheque bearing No.392484, dated 24.07.2015 drawn on Post Office Savings Bank, Sivakasi Branch, for Rs.3,30,000/- and on presentation of the cheque in HDFC Bank for collection, the same was returned with an endorsement as Account closed on 25.07.2015. Thereafter, the respondent/complainant has issued a legal notice to the



petitioner/accused, which was received on 06.08.2015 and the petitioner issued a reply on 18.08.2015 with false allegations. Hence, the case.

3.The trial court convicted the petitioner under section 138 of Negotiable Instruments Act and sentenced him to undergo simple imprisonment for one year and also directed to pay a Rs.3,30,000/- as compensation under Section 357(3) Cr.P.C within a period of one month, in default to undergo further period of SI for three months. Aggrieved by the said order, the petitioner filed appeal before the Principal District and Sessions Judge, Virudhunagar @ Srivilliputhur in C.A.No.215 of 2019 and the learned Judge passed an order with the condition to deposit 50% of the compensation amount (Rs.1,65,000/-) with two sureties before the trial court and also directed the petitioner to appear before the Additional District and Sessions Judge, Srivilliputhur on 12.02.2019 and on further hearing dates. Hence, the petitioner filed an extension of time for executing the conditional order. The first appellate court granted two weeks time for complying the order and thereafter, the petitioner has not complied with the order and finally, he filed Cr.MP No.818 of 2019, which was allowed on 21.02.2019. Now, the petitioner has filed this revision to set aside the conditional order passed in Cr.M.P.No.215 of 2019 in respect of deposit of Rs.1,65,000/- alone.

4.Heard both sides and perused the materials available on record.

5.It is seen from the records that the petitioner is working as a packer in postal department and he is getting Rs.12,298/- salary per month and he is the only breadwinner of the family.

6.The main grievance of the petitioner is that he is working as a packer and he is not a position to deposit Rs.1,65,000/- and hence, he seeks modification of the condition to an extent that to deposit Rs.1,65,000/- alone.

7.Considering the facts and circumstances of this case and also considering the fact that the petitioner is working as a Packer in the Postal Department, this court is inclined to modify the conditional order passed by the first appellate court.

8.In the result, this Criminal Revision is **partly allowed**. The conditional order passed by the first appellate court is modified to the effect that the petitioner shall deposit 25% of the compensation amount before the trial court, instead of 50% of the compensation amount. In other aspects, the order of the first



appellate court shall stand unaltered. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CRL.SIDE)

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Sub Assistant Registrar (CS)

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1.The Principal District and Sessions Judge,
Virudhunagar District @ Sriviliputhur.

2.The Judicial Magistrate No.I,
Sivakasi.

+1 CC to Mr.J.JEYAKUMARAN, Advocate (SR-77572[F] dated 25/07/2019)

+1 CC to M/s.G.M.LAW OFFICE, Advocate (SR-77766[F] dated 26/07/2019)

Judgment made in
Crl.R.C (MD) No.125 of 2019
25.07.2019

KM/ (02.03.2020) 3P 5C