

**BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT****DATE : 17.10.2019****CORAM****THE HONOURABLE MR. JUSTICE V.PARTHIBAN****CRL. R.C. (MD) NO. 778 OF 2019**

Prabu

.. Petitioner/Accused

- Vs -

1. The Public Prosecutor
Principal District Court
Thoothukudi.

2. Ganesan

.. Respondents/Complainant

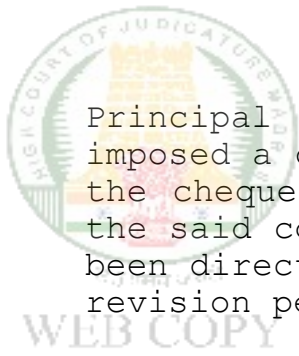
Criminal Revision Case filed u/s 397 r/w 401 of the Code of Criminal Procedure, against the order dated 26.08.2019 passed by the learned Principal Sessions Judge, Thoothukudi in Cr. M.P. No.3708 of 2019 in C.A. No.41 of 2019 modifying the condition in respect of ordering deposit a cash security of Rs.60,000/- as imposed on the petitioner/appellant while suspending the sentence.

For Petitioner : Mr. S.Ramasamy

For Respondents : Ms. M.Anantha Devi, GA (Crl. Side),
for R-1**ORDER**

The present revision has been filed against the order passed in Cr. M.P. No.3708 of 2019 by the learned Principal District Judge, Thoothukudi, modifying the condition imposed on the petitioner by the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Thoothukudi in C.C. No.273/2013 dated 22.3.2019.

2. The proceedings initiated by the defacto complainant against the petitioner herein u/s 138 of the Negotiable Instruments Act claiming that the petitioner herein had defaulted in payment of the amount of Rs.1,80,000/- ultimately culminated in an order by the learned Judicial Magistrate convicting the petitioner herein to undergo simple imprisonment for a period of one year and to pay the cheque amount of Rs.1,80,000/- as compensation within a period of one month from the date of judgment and in default of payment, to undergo simple imprisonment for a period of one month. Against the said order, the petitioner herein filed appeal and the learned



Principal District Judge, Thoothukudi, vide the impugned order, imposed a condition of deposit of Rs.60,000/-, which is one-third of the cheque amount, as a condition for grant of bail. Aggrieved by the said conditional order in and by which the petitioner herein had been directed to deposit one-third of the cheque amount, the present revision petition has been filed.

3. Learned counsel appearing for the petitioner submitted that the condition for deposit of one-third of the cheque amount is onerous and this Court may reduce the same. It is submitted that the courts below have not properly appreciated the evidence and the petitioner has a fair chance of success in the revision and, therefore, prayed for reduction of deposit of one-third amount as ordered by the court below.

4. This Court paid its best attention to the submissions advanced by the learned counsel for the petitioner and also perused the materials available on record as also the order passed by the trial court and the appellate court.

5. Even at the very outset, this Court is of the considered view that the condition imposed on the petitioner could in no way be said to be unreasonable or onerous. The trial court, on fair appreciation of the materials has convicted and sentenced the petitioner and the appellate court, to render substantial justice, imposed a condition of payment of one-third of the cheque amount, which works to about Rs.60,000/- as a condition for enlarging the petitioner on bail. A perusal of the materials further reveal that the alleged amount was borrowed by the petitioner herein from the complainant/2nd respondent way back in the year 2013 and almost six years have passed and the complainant/2nd respondent has not realised the cheque amount and in such view of the matter, the appellate court has ordered deposit of only one-third of the cheque amount.

6. The submission of the learned counsel for further reduction from the one-third amount ordered by the appellate court would be nothing but denying the benefit of substantial justice to the 2nd respondent/complainant. The appellate court, on clear appreciation, has directed deposit of Rs.60,000/-, which is fully justified in the facts and circumstances of the case and, therefore, no interference is warranted with the order passed by the court below.

7. Learned counsel appearing for the petitioner submitted that this Court having decided to dismiss the revision petition, the petitioner may be given some time to deposit the amount.

8. Taking into consideration the abovesaid submission, while this revision is dismissed, however, time for deposit of Rs.60,000/-, as ordered by the appellate court, is extended by two weeks from the date of receipt of a copy of this order.



9. Accordingly, this criminal revision is dismissed with the aforesaid direction.

Sd/-

Assistant Registrar (CS III)

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// True Copy //

Sub Assistant Registrar (CS)

GLN

To

1. The Principal District Judge
Thoothukudi.

2. The Judicial Magistrate
Fast Track Court (Magisterial Level)
Thoothukudi.

+1 CC to M/s.S.RAMASAMY, Advocate (SR-92697[F] dated 17/10/2019)

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17.10.2019

KK/SAR/04.11.2019/3P-4C/