



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRL OP(MD) . No.17397 of 2019

WEB COPY

Maragatham,
W/o.Sarkunam,
16/1, Karuppar Illam,
Thiruvalluvar Street,
Karaikudi,
Sivagangai District. ... Petitioner/Petitioner/Appellant/Accused

Vs

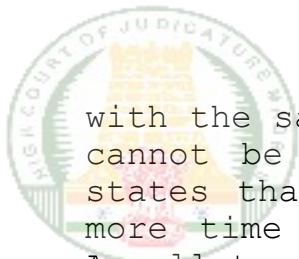
Kathiravan,
S/o.Ramachandran,
16, Kamachi Street,
B.Pudur,
Karaikudi,
Sivagangai District ... Respondent/Respondent/Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439(2) of Cr.P.C, to set aside the order in respect of payment of 20 percent of the cheque amount before the learned Judicial Magistrate Fast Track Court, Karaikudi within 30 days from today in Cr.MP.No.3005 of 2019 in C.A.No.80 of 2019 dated 24.10.2019 on the file of the learned Principal District and Sessions Judge, Sivagangai.

For Petitioner : M/s.A.G.Senthil Kumar

O R D E R

The petitioner herein suffered conviction under Section 138 of Negotiable Instruments Act vide judgment dated 30.09.2019 in C.C.No.36 of 2017, on the file of the learned Judicial Magistrate/Fast Track Court, Karaikudi. She was sentenced to undergo 15 months simple imprisonment and also directed to pay a fine of Rs.10,01,000/-. Questioning the said judgment of conviction and sentence, the petitioner filed C.A.No.80 of 2019, before the learned Principal District and Sessions Judge, Sivagangai District. The learned Appellate Judge was pleased to suspend the sentence passed by the Trial Magistrate vide judgement dated 24.10.2019. But then, while doing so, the learned Appellate Judge directed the petitioner herein to deposit 20 percent of the cheque amount. The learned Appellate Judge has only carried out the statutory mandate. But then, the learned Appellate Judge has given 30 days to comply



with the said condition. This is again a discretionary order and it cannot be found fault with. But then, the petitioner's counsel states that the petitioner being a lady and home maker needs some more time to mobilise the said amount. The statute enables the Appellate Court to grant 60 days from the date of the order to deposit the amount in question. The learned Appellate Court is also enabled to extend the said time by 30 more days. In other words within the outer limit of 90 days, the condition will have to be complied with. Considering the facts and circumstances pleaded by the petitioner, I am inclined to grant time till 23.12.2019.

2.The statute itself states that the Court can grant time till 60 days and also extend the same by 30 more days. This is not a matter in which the complainant can have any say. Therefore, notice to the respondent stands dispensed with. The order impugned in this criminal original petition is modified on these terms. The criminal original petition stands allowed.

Sd/-

Assistant Registrar

/ True Copy /

Sub Assistant Registrar(CS-II)

To:

- 1.The Judicial Magistrate, Fast Track Court,
Karaikudi
2. The Principal District and Sessions Judge,
Sivagangai.

+1CC to M/s.A.G.SENTHILKUMAR, Advocate (SR-101645[F] dated 27/11/2019)

Crl.O.P. (MD) No.17397 of 2019
26.11.2019

ias
ES/28.11.2019/2P/4C