

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2020

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No. 3568 of 2020
and Crl.M.P.No.2089 of 2020

Gopiperiyasamy,
S/o. Periasamy,
No.6/204,Santhaipettaipudhur,
Amirtha Herbals,
38/7, Omsakthi Towers,
Opposite to Sub-Collector Office,
Thenkanikottai Road,
Hosur,
Krishnagiri District.

...Petitioner/Petitioner
/Appellant/Accused

Vs.

R.Rajavel,
S/o. Rathinam,
No.543/D5, Andavar Nagar,
Trichy Raod,
Namkkal Taluk,
Namkkal District.

...Respondent/Respondent
/Respondent/Complainant

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, praying to set aside the order dated 16.12.2019 made in Crl.M.P.No.2038 of 2019 in Crl.Appeal No.81 of 2019 passed by the Hon'ble Principal Session Judge, Namakkal.

For Petitioner : Mr.Manoharan Sundaram
For Respondent : Mr.G.Arulm Murugan

ORDER

This petition has been filed for challenging the order dated 16.12.2019 made in Crl.M.P.No.2038 of 2019 in Crl.Appeal No.81 of 2019 passed by the Hon'ble Principal Session Judge, Namakkal.

2.The learned counsel for the petitioner would submit that the petitioner is an accused on the complaint lodged by the defacto complainant for the offence under section 389 Cr.P.C and

therefore, was convicted by the trial Court/Learned Judicial Magistrate No.1, Namakkal in CC.NO.393 of 2015 by an order dated 18.11.2019 and was sentenced to undergo imprisonment for six months and was also directed to pay compensation for a sum of Rs.30,00,000/-, in default of fine to undergo simple imprisonment for one month. Aggrieved by the same, the petitioner filed by an appeal in Crl.A.No. 81 of 2019 on the file of the Learned Principal Sessions Judge, Namakkal. While granting suspension of sentence imposed by the trial court, the petitioner was directed to deposit 25% of compensation amount within a period of 60 days. Due to the financial crisis, the petitioner could not able to comply with the condition.

3. On perusal of records the learned counsel for the respondent would submit that the Appellate Court passed an order on 16/12/2011 and granted 60 days time to the petitioner to comply the condition imposed by the trial court and categorically stated that the petitioner had failed to comply the condition. He further submitted that seven month period had lapsed and have been liable to be disposed off.

4. The learned counsel for the respondent would submit that for the offence under section 138 NI Act, in C.C.NO: 339/2015, the Judicial Magistrate Namakkal by judgement dated 18/11/2019 convicted and sentenced the petitioner to undergo simple imprisonment for six months and also directed to pay compensation of Rs. 30,00,000/- to the defacto complainant. While considering suspension of sentence, the Appellate Court imposed a condition that the petitioner shall deposit 25% of compensation amount before the trial court within a period of 60 days, vide judgment dated 16/12/2019. Till today, the petitioner did not comply the condition imposed by the First Appellate Court. Further, now the period of seven months also lapsed and as such, time also cannot be extended. Since the provision under section 148 of NI Act provides only 60 days and 30 days totally 90 days to comply the condition, on devoid of merits this petition is dismissed. The respondent is at liberty to take appropriate action to execute the condition imposed by the trial court in the manner know to law.

5. With the above direction, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vsn

To

1. The Principal Sessions Judge, Namakkal

+1cc to Mr.G.Arul Murugan, Advocate, S.R.No.25233

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VS (CO)
KKV/25/08/2020



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