



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.01.2020

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WEB COPY **THE HONOURABLE MR.JUSTICE A.D. JAGADISH CHANDIRA**

CrI.O.P.(MD)Nos.262, 264, 266, 270, 271, 273, 276, 278 and 279 of 2020

M/s.Thiagarajar Mills (P) Limited,
rep.by its Manager (Admn),
Sri.G.Sabapathi, S/o.Govindasamy,
Kappalur, Madurai - 625 008. ... Petitioner/Petitioner/Complainant
(in all petitions)

Vs.

1.M/s.VTX Industries Limited
Rep.through its Managing Director,
AL. Ramachandra,
D.No.230, Tea Estate Compound,
Race Course Road Coimbatore.

2.AL.Ramachandra ...Respondents/Respondents/Accused
(in all petitions)

Common Prayer: These Criminal Original Petitions have been filed under Section 482 Cr.P.C, to direct the learned Judicial Magistrate No.I, Fast Track Court (Magistrate Level) at Madurai to dispose of the Cr.M.P.Nos.6402, 6403, 6404, 6405, 6406, 6407, 6408, 6409 and 6410 of 2018 in S.T.C.Nos.1774, 1775, 1776, 1805, 1806, 1807, 1866, 1867 and 1868 of 2012 respectively, pending before him in accordance with law.

(in all petitions)

For Petitioner : Mr.B.Pravin Kumar

COMMON ORDER

These Criminal Original Petitions have been filed to direct the learned Judicial Magistrate No.I, Fast Track Court (Magistrate Level) at Madurai to dispose of the Cr.M.P.Nos.6402, 6403, 6404, 6405, 6406, 6407, 6408, 6409 and 6410 of 2018 in S.T.C.Nos.1774, 1775, 1776, 1805, 1806, 1807, 1866, 1867 and 1868 of 2012 respectively, pending before him in accordance with law.



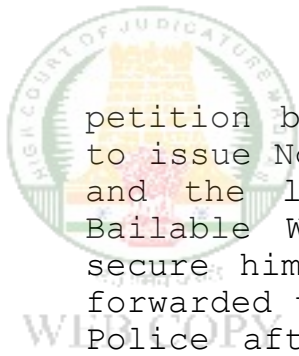
2.The learned counsel for the petitioner would submit that the petitioner is a private limited company. The petitioner had filed nine complaints against the respondent/accused for offences under Section 138 r/w.142 of Negotiable Instruments Act in respect of dishonour of cheques for a total sum of Rs. 5.67 Crores. The trial court convicted the second respondent in his personal capacity and also as the Managing Director of the accused company. Besides the sentence of one year imprisonment, the accused was ordered to pay the cheque amount as compensation under Section 357(3) of Cr.P.C. No fine amount has been imposed and no default clause for non-payment of compensation has been prescribed. Against the order of conviction and sentence the respondent filed Crl.A.No.30 to 38 of 2016 before the learned Principal Sessions Judge, Madurai which was later transferred to the learned VI Additional District Judge, Madurai for disposal. The appellate Court vide common judgment dated 22.12.2016 dismissed the appeals filed by the respondent/accused. The petitioner had also filed appeals seeking to enhance the sentence and compensation and the appellate Court enhanced the sentence of imprisonment to two years and also enhanced the compensation amount from Rs.60,00,000/- to Rs.9,00,00,000/-. Against the common judgment passed in Criminal appeals, the respondent/accused had preferred the criminal revision cases before this Court and this Court by an order dated 01.09.2017 was pleased to admit the Criminal Revision cases and exempted the second respondent herein from surrendering before the lower appellate Court and also suspended the sentence imposed against the respondents/accused on conditions:

(i) to deposit 50% of the cheque amount in each cases before the trial court within a period of six weeks from the date of receipt of a copy of the order and further directed

(ii) the second accused to execute a bond for Rs.10,000/- with two sureties each for a like sum to the satisfaction of the learned Magistrate and to

(iii) report before the learned Judicial Magistrate on the first working day of the every English Calendar Month until further orders"

3. The learned counsel would further submit that this Court had also further held that if the accused fails to comply with any one of the aforesaid conditions, the order granting suspension of sentence would stand automatically cancelled without further reference to this Court. Against the conditional order passed by this Court in the Criminal Revision Cases, the respondent/accused had preferred Special Leave Petitions before the Honourable Supreme Court of India and the same were dismissed by order dated 13.11.2017. Since the accused has not complied with the order passed by this Court dated 01.09.2017 the order of suspension of sentence had got automatically cancelled. The petitioner had filed a

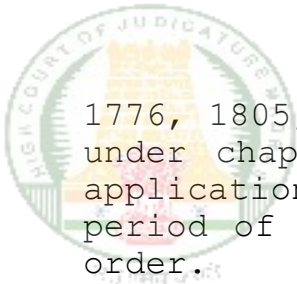


petition before the learned Magistrate under Section 70 of Cr.P.C to issue Non Bailable Warrant against the second respondent /accused and the learned Judicial Magistrate was pleased to issue Non Bailable Warrant on 22.11.2017 against the second respondent to secure him on or before 11.01.2018. The Non Bailable Warrant was forwarded to the concerned Inspector for Execution. The Inspector of Police after due search had filed a report before the learned Judicial Magistrate on 22.06.2018 stating that the accused person could not be traced inspite of a Special Wing being formed to secure him and thereby Non Bailable Warrant could not be executed. Thereafter the petitioner has filed petition under Sections 82,83,446 and 446(A) of Cr.P.C to order for proclamation as the accused was evading and concealing himself from the execution of Non Bailable Warrant in Cr.M.P.No. 6402 of 2018. The learned Judicial Magistrate by his order dated 15.03.2019 ordered for issuance of a written proclamation in order to secure the presence of the accused and adjourned the matter to 16.05.2019 for further proceedings. As per the order passed by the learned Judicial Magistrate, the petitioner made the proclamation under Section 82 of Cr.P.C and due publication had also been effected in accordance with law by affixture of notice as contemplated under law. The accused ought to have surrendered before the Court on 04.07.2019. Even after proclamation the respondent/accused has not appeared and then the matter was adjourned without any progress from 04.07.2019. Despite the case being listed on 09.07.2019, 22.08.2019, 27.08.2019, 06.09.2019, 20.09.2019, 03.10.2019, 19.10.2019, 07.11.2019, 25.11.2019, 04.12.2019, 19.12.2019 and 30.12.2019 the learned Magistrate has not passed any order. The learned counsel would submit that after issuance of proclamation the court has to order for attachment of property whereas no further progress is shown by the court below. He would further submit that the amount involved in this case is Rs. 5.67 crores and the petitioner/complainant is running from pillar to post to secure the respondent and to recover the monies for the last eight years and thereby would seek that a direction may be issued tot he learned Magistrate to dispose the petitions.

4. Perused the records.

5. In this cases proclamation has been effected against the accused who has been absconding. After due publication of proclamation effected under Section 82 of Cr.P.C the trial court ought to have proceeded further as per the procedure contemplated inaccordance with law as per section 82(iii)(v) and 83 of Cr.P.C, whereas the matter is being simply adjourned without any further progress.

5. In view of the same, the learned Judicial Magistrate No.I, Fast Track Court(Magisterial Level) Madurai is directed to continue with the further proceedings in Cr.M.P.Nos.6402, 6403, 6404, 6405, 6406, 6407, 6408, 6409 and 6410 of 2018 in S.T.C.Nos.1774, 1775,



1776, 1805, 1806, 1807, 1866, 1867 and 1868 of 2012 as contemplated under chapter VI.C of Cr.P.C on day to day basis and dispose the applications as expeditiously as possible preferably within a period of four months from the date of receipt of a copy of this order.

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Sd/-

Assistant Registrar (AD-II)

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/ /2020

Sub Assistant Registrar(CS)

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To:
The Judicial Magistrate No.I,
Fast Track Court (Magistrate Level)
Madurai.

+1 CC to M/s.B.PRAVINKUMAR, Advocate (SR-1046[F] dated 09/01/2020)

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