



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 23.01.2020

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THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

CrI.R.C(MD)No.48 of 2019

and

CrI.MP(MD)No.1319 of 2019

WEB COPY

S.Manjula : Petitioner/Petitioner/Appellant

Vs.

K.U.Sivaprakash : Respondent/Respondent/Respondent

Prayer: Criminal Revision Petition has been filed under section 397 r/w 401 of Criminal Procedure Code, against the order made in Cr.M.P.No.5303 of 2018 in CrI.A.No.151 of 2018, dated 05.02.2019 passed by the District and Sessions Court, Trichirappalli.

For Petitioner : Mr.T.Vadivelan

For Respondent : Mr.K.Sivabalan

J U D G M E N T

This criminal revision is directed against the order passed in Cr.M.P.No.5303 of 2018 in CrI.A.No.151 of 2018, dated 05.02.2019 by the Principal District and Sessions Court, Trichirappalli.

2.The respondent/complainant preferred a complaint against the petitioner/accused under section 138 of the Negotiable Instrument Act before the Judicial Magistrate No.IV, Trichirappalli on the ground that the petitioner borrowed a sum of Rs.5,00,000/- and gave a cheque bearing No.376454, dated 05.04.2014 to settle the loan amount, when the cheque was presented, it was returned as "**Funds Insufficient.**" Hence, the case.

3.The learned Judicial Magistrate No.IV, Trichirappalli, on proper appreciation of the entire materials available on records, both oral and documentary passed an order, convicting the petitioner for the offence under section 138 of the Negotiable Instruments Act and sentenced her to undergo simple imprisonment for one year and to pay a compensation of Rs.5,00,000/-, in default of payment of compensation, directed to undergo simple imprisonment for a further period of two months. Aggrieved by the order of the Judicial Magistrate No.IV, Trichirappalli, the petitioner preferred an appeal in CrI.A.No.151 of 2018 on the file of the Principal District and Sessions Judge, Trichirappalli and filed an application in Cr.MP No.5303 of 2018 for suspension of sentence. The learned Sessions Judge, passed an order on 10.12.2018 and granted suspension till pending of the appeal on condition that the petitioner shall deposit a sum of Rs.1,00,000/- on or before 26.12.2018 before the trial court. Since, the petitioner was not able to comply with the said order, she filed application for extension of time for a month to deposit the conditional amount in Cr.MP No.1 of 2019. The said



petition was dismissed on 05.02.2019. Aggrieved over the same, the petitioner is before this court.

4.The learned counsel appearing for the petitioner argued that the first appellate court has not given sufficient time to comply with the conditional order, even though the petitioner is struggling for survival with her school going daughter and the condition imposed on the petitioner is onerous and prays for allowing the criminal revision.

5.On the other hand, the learned counsel appearing for the respondent argued that the order of the first appellate court is perfectly correct, which does not require any interference of this court and prays for dismissal of the criminal revision.

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

7.It is seen that the first appellate court suspended the sentence till the disposal of CrI.A No.151 of 2018 on condition that the petitioner shall deposit a sum of Rs.1,00,000/- on or before 26.12.2018 before the lower court. But the petitioner has not complied with the condition and filed a petition for extension of time. But the first appellate court dismissed the above petition.

8.When the condition was imposed as against the petitioner, it is the bounden duty of the petitioner to comply with the conditional order. But the petitioner failed to comply with the conditional order. The first appellate court correctly dismissed the petition filed seeking for extension of time to comply with the condition. The reasons stated by the petitioner are not acceptable. Hence, it is held that there is no necessary to interfere in the impugned order passed by the first appellate court.

9.In the result, the criminal revision is **dismissed**. The petitioner is directed to comply with the condition imposed by the first appellate court, within a period of two weeks from the date of receipt of a copy of this order. On such compliance, the first appellate court is directed to dispose of the case C.A.No.151 of 2018 within a period of two months thereafter, purely on merits and in accordance with law. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)



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To

1.The Judicial Magistrate No.IV,
Tirucirappalli.

2.The Principal Sessions Judge,
Tiruchirappalli.

+1 CC to M/s.T.VADIVELAN, Advocate (SR-2661[F] dated 23/01/2020)
+1 CC to M/s.K.SIVABALAN, Advocate (SR-2719[F] dated 23/01/2020)

Judgement made in
Crl.R.C (MD) No.48 of 2019
23.01.2020

SMA/25/02/2020/3P/5C