



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Thursday, the Second day of January Two Thousand Twenty
PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL MP(MD) No.2487 of 2017
in
CRL RC(MD)No.297 of 2012

VISWAMBARA NAIR,

... PETITIONER/REVISION PETITIONER

Vs

ANILKUMAR,

... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to pass appropriate order permitting the Petitioner to withdraw Rs.45,000/- deposited on 04.10.2012 in C.C.No.406 of 2007 on the file of Judicial Magistrate No.1, Kuzhithurai in Crl.R.C.(MD)No.297 of 2012 dated 18.07.2012 and thus render justice.

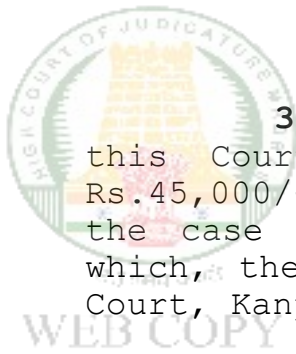
Prayer in CRL RC(MD). 297/ 2012 :

To call for records allow the Revision Petition and set aside the order passed in CMP No. 7893/2011 in CC No. 406/2007 by the Judicial Magistrate No. 1, Kuzhithurai dated 13.06.2012.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.C.K.M.APPAJI, Advocate for the petitioner and of the respondent not appeared either in person or by an advocate, the court made the following order:-

The petitioner has filed Crl.M.P.(MD).No.2487 of 2017, seeking permission to withdraw Rs.45,000/- (Rupees Forty Five Thousand only) which was deposited on 04.10.2012 in C.C.No.406 of 2007, pursuant to the order passed by this Court in Crl.R.C.(MD). No.297 of 2012, dated 18.07.2012.

2. The brief facts of the case is that, the petitioner is an accused based on the complaint filed by the respondent for an offence under Section 138 of the Negotiable Instruments Act, which was pending trial in C.C.No.406 of 2007, before the learned Judicial Magistrate No.I, Kuzhithurai. During the pendency of the trial, the petitioner had moved a petition in C.M.P.No.7893 of 2011, seeking the disputed cheque to be sent to the Forensic Expert for studying the age of the signature. This application was dismissed by the learned Judicial Magistrate on 13.06.2012, against which, Crl.R.C.(MD).No.297 of 2012 came to be filed before this Court.



3. During the disposal of the Criminal Revision Petition, this Court had directed the petitioner to deposit a sum of Rs.45,000/- as security deposit in C.C.No.406 of 2007. Thereafter, the case ended up in conviction against the petitioner, against which, the petitioner had preferred an Appeal before the Sessions Court, Kanyakumari in C.A.No.49 of 2014.

4. During the pendency of the case in C.A.No.49 of 2014, the matter was referred to Lok Adalat, Kanyakumari District. In the Lok Adalat, the matter was settled between the petitioner and the respondent on 21.01.2016 and the case had been given quietus. Thereafter, the petitioner had preferred a petition before the Trial Court under Section 452 Cr.P.C. seeking for the return of security deposit of Rs.45,000/- on 04.10.2012. The learned Judicial Magistrate No.I, Kuzhithurai had negatived the prayer of the petitioner for the reason that the amount of Rs.45,000/- has been deposited, pursuant to the order of this Court in Crl.R.C.(MD). No.297 of 2012, dated 18.07.2012. The copy of the receipt for such deposit of security amount is also produced before this Court.

5. In view of the above facts and circumstances of the case, this petition is ordered accordingly and the learned Judicial Magistrate No.I. Kuzhithurai, is directed to return the sum of Rs.45,000/- (Rupees Forty Five Thousand only), which was deposited on 04.10.2012 to the petitioner.

sd/-
02/01/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE JUDICIAL MAGISTRATE NO.I, KUZHITHURAI.

2. DO THRO' THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

+1. C.C. to M/S.C.K.M.APPAJI Advocate SR.No.43

ORDER
IN
CRL MP(MD) No.2487 of 2017
in
CRL RC(MD) No.297 of 2012
Date : 02/01/2020

tsg
AE/JC/SAR-III (07.01.2020) 2P 4C

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