



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.03.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.NO.279 OF 2020

M/s.Sundar Timber & Plyboards (P) Ltd.,
Represented by its Managing Director,
Mr.Mahendran, 501, Sydenhams Road,
Choolai, Chennai - 600 112.

... Petitioner

Vs.

Arumugam

... Respondent

Prayer: Criminal Revision Case filed under 397 r/w 401 of Cr.P.C. to set aside the order passed in Crl.M.P.No.5945 of 2019 in C.C.No.184 of 2019, on the file of Fast Track Court No.IV, Metropolitan Magistrate, George Town, Chennai and set-aside the same.

For Petitioner : Mr.T.Mohan
For Mr.M.Murali

O R D E R

This Criminal Revision Case has been filed by the petitioner/Complainant, against the order dated 21.01.2020 in Crl.M.P.No.5945 of 2019 in C.C.No.184 of 2019, on the file of the learned Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai.

2. The facts of the case are that Crl.M.P.No.5945 of 2019 had been filed by the petitioner/complainant under Section 143 A (1) of the Negotiable Instruments Act, to direct the respondent/accused to pay interim compensation of 20% of the cheque amount, pending the trial.

3. The respondent/accused had filed a counter, wherein it had been stated that one Mr.Venkat @ Venkatesan, who is the working under the respondent-Company, has purchased the material for his own from the petitioner/complainant and thereafter, the said Mr.Venkat @ Venkatesan given respondent's blank cheque to the petitioner/complainant, without knowledge of the respondent with mala-fide intention, and he has got a good case on merits and is genuinely contesting the case and that if the petition is allowed, the accused would suffer irreparable loss and hardship.



4. The Trial Court, on perusal of records and after hearing both sides had held that the petitioner herein/complainant narrated the reason for filing the petition is that the respondent herein/accused not chosen to appear before the trial Court and hence, on 28.05.2019, bailable warrant issued against the respondent herein/accused. The trial Court, held that the respondent herein/accused is properly representing the case through counsel and the bailable warrant has been recalled against the respondent herein/accused on the next hearing i.e., 23.07.2019 and on that date itself notice under Section 251 of Cr.P.C., was framed against the respondent/accused. Therefore, the learned Metropolitan Magistrate did not find any justification to allow the petition and dismissed the petition. As against the same, the present revision has been filed.

5. This Court heard the learned counsel for the petitioner and perused the records and also the order of dismissal passed by the learned Metropolitan Magistrate.

6. According to the learned counsel for the petitioner/complainant, Section 143 A (1) of the Negotiable Instruments Act has been introduced, creating power to the Trial Judge, to direct the accused to pay interim compensation of 20% of the cheque amount. However, the learned Judge dismissed the interim compensation application as if the respondent/accused being properly representing the case through counsel and therefore, no interim compensation need to be paid by the respondent/accused. However, the judgment of this Court in L.G.R. Enterprises, Rep. by its Proprietrix Sindu @ Lakshmi and another vs. P.Anbazhagan [Crl.O.P.Nos.15438 and 154440 of 2019, dated 12.07.2019], was relied by the lower Court clearly states that if the accused protracts the proceedings, the debt is borne out by overwhelming materials which the accused cannot deny then the trial Court will be justified in directing the accused to pay the interim compensation. In the case on hand, admittedly, the accused had not even chosen to reply the statutory notice and thereby, he admits the transaction, above all, the impugned order clearly shows that the accused failed to appear even to receive copies on 20.03.2019, 24.04.2019 20.05.2019, 28.05.2019 and till 23.07.2019 and only after issuance warrant, the accused appeared on 23.07.2019 and this would clearly show that the intention of the accused is to protract the proceedings of the main case, which needs to be summarily tried. However, the learned Judge without properly following the decision of this Court, had erroneously dismissed the application and hence, prays for setting aside the order passed by the trial Court.



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7. It is to be noted that the petition in C.C.No.184 of 2019, has been filed in the year 2019 and it has been pending for more than 2 years and now the petition has been ripe for trial. Admittedly, the witnesses have been examined and subsequently, the respondent has filed the petition to recall the witnesses, which was also pending for a quiet long time.

8. According to the learned counsel for the petitioner/complainant, the observations made in the impugned order clearly show that the attitude of the respondent/accused is to protract the proceedings, however, the learned Judge, without properly following the decision in L.G.R. Enterprises, Rep. by its Proprietrix Sindu @ Lakshmi and another vs. P.Anbazhagan [Crl.O.P.Nos.15438 and 154440 of 2019, dated 12.07.2019], dismissed the petition. No doubt, applying of the said decision is not mandatory, but it is only discretionary power of the Court. However, this Court, without making any observation regarding the order passed by the trial Court in the petition filed under Section 143 A(1) of the Negotiable Instruments Act, and considering the fact that since the matter is pending from 2019 onwards, directs the learned Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai, to complete the proceedings, on or before 30th April 2021. The trial shall be conducted on a day to day basis in accordance with the guidelines given by Hon'ble Supreme Court reported in Vinod Kumar Vs State of Punjab [2015 (1) MLJ (Crl) 288 SC]. If the respondent/accused adopts any dilatory tactics, it is open to the trial Court to insist upon the presence of the respondent/accused and remand him to custody as per the judgment of the Hon'ble Supreme Court in STATE OF UTTAR PRADESH VS. SHAMBHU NATH SINGH (JT 2001 (4) SC 3191). The learned Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai, is further directed to send a compliance report before this Court.

9. With the above direction, this Criminal Revision Case is disposed of.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Fast Track Court No.IV,
Metropolitan Magistrate, George Town,
Chennai.

2. The Chief Metropolitan Magistrate,
Egmore, Chennai-8.

Copy To

1. The Registrar Judicial,
High Court, Madras-104.
2. The Section Officer,
Criminal Section,
High Court, Madras-104.

+lcc to Mr.M.Murali, Advocate, S.R.No.20863

Cr1.R.C.No.279 of 2020

KV(CO)
CS/17/04/2021