



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.10.2021

WEB COPY

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.R.C.No.668 of 2021

G.Aruloli

...Petitioner

Vs.

K.Mani

...Respondent

Criminal Revisions filed under Section 397 and 401 of Code of Criminal Procedure against the order dated 22.01.2021 passed by the learned Principal Sessions Judge, Vellore in Cr.M.P.No.1427 of 2020 in C.A.No.23 of 2019.

For Petitioner : Mr.K.Subburam

ORDER

This Criminal Revision Case has been filed against the order dated 22.01.2021 passed in CrI.M.P.No.1427 of 2020 in C.A.No.23 of 2019 by the learned Principal Sessions Judge, Vellore.

2.The petitioner is the accused and the respondent is the complainant. The respondent/complainant filed a complaint against the petitioner under Section 138 of Negotiable Instruments Act [hereinafter referred to as 'N.I.Act' for the sake of convenience] before the learned Judicial Magistrate, Fast Track Court, Vellore in C.C.No.127 of 2016. After due enquiry, the learned Magistrate found guilty of the petitioner/accused for the aforesaid offence and by an order dated 06.02.2019 convicted and sentenced him to undergo simple imprisonment for a period of one year and to pay a compensation of Rs.7,00,000/- together with interest at the rate of 6% interest per annum. Challenging the said conviction and



sentence, the petitioner preferred an appeal in CrI.A.No.23 of 2019 before the learned Principal Sessions Judge, Vellore. During the pendency of the appeal, the respondent/complainant filed a petition in CrI.M.P.No.1427 of 2020 seeking a direction to direct the petitioner herein to deposit 20% of the compensation amount, which was allowed by the learned Sessions Judge on 22.01.2021. Challenging the said order, the petitioner has come forward with the present revision.

3.The learned counsel for the petitioner would submit that there is no mandatory provision to deposit 20% of the compensation amount, pending appeal. The learned Principal Sessions Judge wrongly interrupted the provisions under Section 148 of Negotiable Instrument Act and directed the petitioner herein to deposit 20% of the compensation amount ordered by the trial Court within 60 days of receipt of the order and on such deposit, permitted the respondent to withdraw the same. He would further submit that the petitioner herein aggrieved over the judgment of conviction and sentence, preferred appeal CrI.A.No.23 of 2019. After advancing the arguments in the appeal, the respondent herein filed the miscellaneous petition only to drag on the proceedings of the said appeal. The Lower Appellate Court as a fact finding Court should have heard the appeal on merits and give its findings independently, instead of that passed the order in the miscellaneous petition, which warrants interference of this Court.

4.Though the matter is in the admission list, heard the learned counsel for the petitioner and dispose of the matter on merits.

5.Admittedly, this Court finds that as against miscellaneous petition, no revision would lie. Even assuming that if revision would lie, as per the amended provisions under Section 148 of Negotiable Instruments Act, which has been amended by the Amendment Act No.20/2018 and came into force w.e.f 01.09.2018, if the trial Court convicted the accused and ordered compensation and though he preferred the appeal, the Appellate Court may exercise its discretionary power and order the accused to deposit interim compensation, which is not less than 20% of the compensation amount ordered by the trial Court

6.Considering the facts and circumstances and as per the amended provisions under Section 148 of N.I.Act, this Court does not find any arbitrariness in exercising the discretionary power of the Appellate Court. The Appellate Court has stated that there is a mandatory provisions to deposit 20% of the



compensation amount and the petitioner would not be prejudiced by the same. Therefore, considering the scope of amendment in the year 2018, this Court does not find any perversity in the order passed by the Court below and hence, the Criminal Revision Case is liable to be dismissed. Accordingly, the Criminal Revision Case is dismissed at the admission stage itself.

Sd/-
Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

ms/pbl

To
The Principal Sessions Judge,
Vellore.

Cr1.R.C.No.668 of 2021

SPD (CO)
GMY (06/01/2022)