



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.19163 of 2021
and
Crl.M.P.No.10484 of 2021

V.Ramasamy ... Petitioner/Petitioner/Appellant

Vs

E.Chandran ... Respondent/Respondent/Respondent

PRAYER: Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure, to call for the records and to set aside the order dated 29.09.2021 made in C.M.P.No.172 of 2021 in Crl.A.No.50 of 2021 on the file of the Special Court for Trial of cases registered under SC/ST (POA) Act, Namakkal.

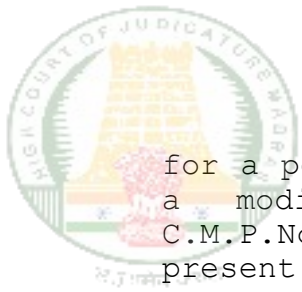
For Petitioner : Mr.K.S.Karthik Raja

For Respondent : Mr.D.Shivakumaran

ORDER

The petitioner/Accused in C.C.No.130 of 2017, who was convicted by the trial Court by judgment dated 12.03.2021 for offence under Section 138 of the Negotiable Instruments Act, had preferred an appeal before the Principal Special Judge, Namakkal in C.A.No.50 of 2021.

2.The trial Court, while convicting the petitioner, directed the petitioner to pay an amount of Rs.24,00,000/-, which is double the cheque amount of Rs.12,00,000/- as compensation to the respondent/complainant. The Sessions judge in C.M.P.No.449 of 2021 suspended the sentence by order dated 31.03.2021 and one of the conditions was that the petitioner to deposit 20% of the compensation amount before the trial Court within a period of 60 days as per 148 of N.I.Act which has been amended by Amendment Act No.20/2018, which came into force w.e.f.01.09.2018. Further, the suspension of sentence was only



for a period of two months. Thereafter, the petitioner had filed a modification petition before the Sessions Court in C.M.P.No.172 of 2021, which was dismissed, against which, the present petition.

WEB COPY

3.The contention of the learned counsel for the petitioner is that the petitioner is 71 year old person, who was having business transaction with the respondent. The petitioner was purchasing eggs from the respondent, who was running a poultry farm and hatchery. During the course of business, there was a due to the tune of Rs.15,52,378/-, in which, Rs.2,00,000/- have been paid and thereafter, it was resolved to settle the issue for payment of Rs.12,00,000/-, for which, the petitioner issued a cheque, that cheque got dishonoured. The lower Court, without giving any reason for passing order under section 357 (3) of Cr.P.C for compensation, had straight away directed the petitioner to pay twice of the cheque amount as compensation, which is not proper.

4.The respondent/complainant submits that the petitioner has been delaying the trial by giving one reason or other. The original case came to be filed before the trial Court in the year 2017 and after four years, the case reached the final stage and finally, the judgment to be rendered only on 12.03.2021. Now, the petitioner has filed the appeal and it will take several years to complete the appeal. The petitioner is protracting the trial by giving one reason or the other.

5.Considering the submission and on perusal of the materials, it is seen that the trial Court had not given any reason before imposing compensation under Section 357(3) of Cr.P.C. Further, it is a business transaction and the cheque amount is Rs.12,00,000/-. In view of the same, this court modifies the order of the lower appellate Court and directing the petitioner to deposit a sum of 20% of the cheque amount of Rs.12,00,000/-, i.e. Rs.2,40,000/- on or before 27.10.2021. The trial Court to receive the same and credit to C.C.No.130 of 2017. The respondent/complainant is free to withdraw the same by filing an affidavit subject to outcome of the appeal. Further, the petitioner to appear on first working day of every month at 10.00 am. and the petitioner to execute a bond of Rs.10,000/- with two sureties for likesum.

6.With the above conditions, this petition is allowed. Finding that the petitioner had been successfully protracting the trial in this case and it takes 4 years to attain finality. Further, the petitioner even not appeared before the trial Court for receiving the judgement and in his absence, the judgment has been rendered. In view of the same, the petitioner's presence on first working day of every month is insisted. Further, the lower



appellate Court to complete the appeal within a period of four months from the date of receipt of a copy of this order. Consequently connected miscellaneous petition is closed.

WEB COPY

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

sms/nr

To

The Special Court for Trial of cases registered
under SC/ST (POA) Act, Namakkal.

+1cc to Mr.D.Shivakumaran, Advocate, S.R.No.53830

+1cc to Mr.K.S.Karthik Raja, Advocate, S.R.No.53844

CRL.O.P.No.19163 of 2021
and
Crl.M.P.No.10484 of 2021

VBM(CO)
SU(25/10/2021)