



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.21103 of 2020

Devikala
W/o.Sudaram

... Petitioner

Vs.

R.Jayaseelan,
S/o.P.Rajamgam

... Respondent

PRAYER: Criminal Original petition has been filed under Section 482 of Cr.P.C prayed to modify the condition imposed on the petitioner viz., the petitioner is directed to deposit a sum of Rs.3,75,000/- before the trial court within 30 days order passed by the learned Principal Sessions Judge, Kancheepuram District at Chengalpattu in Crl.MP.No.3477 of 2020 in Criminal Appeal No.27 of 2020 by its order dated 10.11.2020.

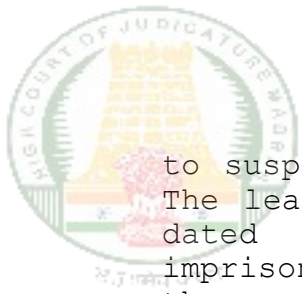
For Petitioner : Mr.K.R.Ramesh Kumar

For Respondent : Mr.William Shakesphere

ORDER

This Criminal Original petition has been filed by the petitioner for seeking modification of the condition imposed by the learned Principal Sessions Judge, Kancheepuram District at Chengalpattu in Crl.MP.No.3477 in Crl.A.No.27 of 2020 in C.C.No.159 of 2017 dated 10.11.2020.

2.The case of the petitioner is that the petitioner herein is the accused and the respondent herein is the complainant in C.C.No.159 of 2017 on the file of the learned Fast Track Court (Magisterial Level) (FAC), Alandur. After trial, the trial court passed the judgment convicting the accused under Section 138 of N.I.Act to undergo six months Simple Imprisonment and to pay a sum of Rs.15,00,000/- as compensation within two months, in default to undergo three months simple imprisonment. Against the said order, the petitioner herein/accused has filed Criminal Revision Petition in Crl.MP.No.3477 in Criminal Appeal No.27 of 2020 on the file of the Principal Sessions Judge, Chengalpattu



to suspend the execution of Sentence imposed on the petitioner. The learned Principal Sessions Judge, Chengalpattu by the order dated 10.11.2020 suspended the execution of sentence of imprisonment alone in respect of the petitioner the disposal of the appeal. Further, the petitioner was directed to deposit a sum of Rs.3,75,000/- before the trial court within 30 days. Aggrieved the same, the present petition has been filed by the petitioner.

3. The learned counsel for for the petitioner/accused has submitted that the accused was well known to the complainant. The complainant was a money lender, lending money for exorbitant interest. He used to give money on thandal basis to local people in his locality. The petitioner/accused used to borrow money from the complainant on thandal basis and return back the money. She has asked Thandal of Rs.1,00,000/- , but, he has paid Rs.85,000/-, it was repaid by her by way of Rs.1,100/- per day for 91 days. Afterwards, she asked Rs.30,000/-, he had given Rs.25,000/- . At that time of giving the said amounts, the complainant had obtained blank signed cheques from the accused as security. He further submits that the complainant conducted an unregistered chit group and he requested the accused to join in the chit group and also requested to join any one else in the chit group. Accordingly, the accused and DW2 viz Malathy who is the neighbour of the petitioner/accused joined a chit group of Rs.6 lakhs and the said DW2/Malathy, individually joined Rs.6 lakhs group. They had auctioned their chits, at the time of disbursing the chit amounts, the complainant had obtained several blank cheques and pronotes as security. She has paid all the chit amounts without default. Due to dispute between DW2/Malathy and the complainant, the complainant unnecessarily misused the cheque which has given as security by the accused. Thereby, the defacto complainant has filed the complaint against the accused under Section 138 of the Negotiable Instruments Act. It is further submitted that the condition imposed on the petitioner /accused is very onerous, as the petitioner is not even able to pay school fees for her children. Hence, he prayed to allow this petition.

4. Per contra, the learned counsel for the respondent has submitted that the petitioner/accused borrowed loan on several occasions from the defacto complainant by executing promissory notes in favour of the defacto complainant. The accused totally borrowed a sum of Rs.30,00,000/- from him. Initially, the accused issued a cheque in favour of the defacto complainant for a sum of Rs.15,00,000/ , but, the cheque was returned dishonoured for the reason insufficient funds. Hence, the complainant filed a petition under Section 138 of Negotiable Instruments Act. After trial, the trial court passed the judgement convicting the accused under Section 138 of N.I.Act to



undergo six months Simple Imprisonment and to pay a sum of Rs.15,00,000/- as compensation within two months, in default to undergo three months simple imprisonment. Against which, the petitioner herein/accused has filed this petition in CrI.MP.No.3477 in Criminal Appeal No.27 of 2020 on the file of the Principal Sessions Judge, Chengalpattu to suspend the execution of sentence imposed on the petitioner. The learned Principal Sessions Judge, Chengalpattu by the order dated 10.11.2020 that the execution of sentence of imprisonment alone in respect of the petitioner is suspended till the disposal of the appeal. Further, the petitioner is directed to deposit a sum of Rs.3,75,000/- before the trial court within 30 days.

5. Considering the fact that there is a possibility of amicable settlement, this Court referred the matter to the Tamil Nadu Mediation and Conciliation Centre, High Court of Madras, Chennai - 600 104. the parties were directed to appear before mediation centre, but inspite of efforts, no settlement was arrived between the parties and hence the matter has been posted before this Court.

6. This Court, at this point of time, is not inclined to discuss the merits and demerits of the case. The issue has to be considered in the prevailing pandemic situation, when leading a life itself is becoming miserable. Therefore, any condition imposed should be just and reasonable and this Court should keep the welfare of both sides while considering the facts and circumstances. In such a backdrop, as it is even difficult to run the family, due to lockdown on account of Covid-19, this Court is inclined to modify the condition imposed by the lower appellate Court with regard to deposit.

7. Accordingly, this petition for modification is disposed of modifying the condition relating to deposit and the petitioner/accused is directed to deposit a sum of Rs.25,000/- instead of Rs.3,75,000/- as ordered by the lower appellate court within a period of two weeks from the date of receipt of a copy of this order.

8. With the above modification, this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar



Vv

To

WEB COPY

1. The Principal Sessions Judge,
Kancheepuram District,
Chengalpattu.
 2. The Fast Track Court (Magisterial Level) (FAC),
Alandur.
 3. The Public Prosecutor,
High Court, Madras.
- +1cc to Mr.K.R.Ramesh Kumar, Advocate Sr.29227

Cr1.O.P.No.21103 of 2020

ak-II[co]
srg 27/07/2021