



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

Date : 22/03/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD).Nos.2867 and 2868 of 2021

R.Venkatesan,
S/o. Rajangam, No.376-F2, Ayyappan
Kovil Street, Kovil Street,
Bungalokwmedu, Theni,
Theni District..

... Petitioner/Appellant in both Cases

Vs

R.Gnanasekaran,
S/o. Raju, No.30,
N.R.T.Street,
Palanichettipatti,
Theni,
Theni District..

... Respondent/Respondent/Respondent
in Crl.O.P.(MD).No.2867 of 2021

Alagusoundararajan,
S/O.Thirumani Chettiar,
Jawaharlal Nehru Street,
Palanichettipatti,
Theni,
Theni District.

... Respondent/ Respondent/ Respondent
in Crl.O.P.(MD).No.2868 of 2021

COMMON PRAYER :- Petitions are filed under Section 439(1)(b) of the Code of Criminal Procedure praying to modify the order in so far as the condition imposed in Cr.M.P.Nos.175 and 176 of 2021 in C.A.Nos.10 and 11 of 2021 on the file of the Learned Principal Sessions Judge, Theni, Theni District, dated 22.1.2021 directing the Petitioner to deposit of 20% compensation amount i.e., Rs.3,48,896/- and Rs.2,32,597/- within 30 days before the Judicial Magistrate, Fast Track Court (Magistrate Level), Theni.

For Petitioner : Mr.Ramasamy.S,
Advocate.

For Respondent : Mr.M.V.Chandrasekaran,
Government Advocate (Crl.Side)

For Intervener : Mr.J.Sulthan Basha
Advocate
(IN BOTH CRL.O.Ps.)

COMMON ORDER

These petitions have been filed to modify the conditions imposed in Crl.M.P.Nos.175 and 176 of 2021 in C.A.Nos.10 and 11 of 2021 on the file of the learned Principal Sessions Judge, Theni, Theni District, dated 22.01.2021 directing the petitioner to deposit 20% compensation amount i.e., Rs.3,48,896/- and Rs.2,32,597/-



respectively within 30 days before the Judicial Magistrate, Fast Track Court (Magistrate Level), Theni.

2.The petitioner/Accused in S.T.C.Nos.26 and 27 of 2019 was convicted by the trial Court sentencing him to undergo simple imprisonment for one year and to pay a compensation of Rs.15,00,000/- and Rs.10,00,000/- with an interest at the rate of 9% per annum within a month, in default, to undergo simple imprisonment for four months, by judgment dated 23.12.2020. Thereafter, the petitioner had filed two petitions under Section 389(3) of Cr.P.C., in Crl.M.P.Nos.1666 and 1667 of 2020 seeking suspension of sentence, which was suspended for 30 days. Thereafter, the petitioner had preferred a Criminal Appeals before the learned Principal Sessions Judge, Theni, Theni District, in C.A.Nos.10 and 11 of 2021 along with suspension of sentence petitions in Cr.M.P.Nos.175 and 176 of 2021. After hearing arguments, the Sessions Judge admitted the appeal and suspended the sentence of imprisonment on condition that the petitioner shall deposit 20% of the compensation amount with interest ie., Rs.3,48,896/- and Rs.2,32,597/- respectively before the trial Court within 30 days.

3.The learned counsel appearing for the petitioner submitted that the condition is a onerous one and he is unable to execute the sureties. He further submitted that the offence is not a heinous in nature. He further submitted that the petitioner is an agricultural coolie and he is unable to pay a sum of Rs.3,48,896/- and Rs.2,32,597/- respectively as imposed by the Appellate Court. Hence, the present petitions have been filed seeking modification.

4.The learned counsel appearing for the intervener/defacto complainant has no objection to modify the condition.

5.Considering the facts and circumstances of the case and also considering the gravity of offence, this Court is inclined to modify the condition. Accordingly, the condition stands modified to the effect that the petitioner shall directly pay a sum of Rs.2,00,000/- in each cases to the respondent/complainant within a period of three weeks from the date of receipt of a copy of this order. The other conditions imposed by the learned Principal Sessions Judge, Theni, Theni District, in Crl.M.P.Nos.175 and 176 of 2021 in C.A.Nos.10 and 11 of 2021, vide order dated 22.01.2021, stand unaltered.

6.These Criminal Original Petitions are ordered accordingly.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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- TO
- 1.The Principal Sessions Judge,
Theni,
Theni District.
 - 2.The Judicial Magistrate,
Fast Track Court (Magistrate Level),
Theni.
 - 3.The Chief Judicial Magistrate,Theni.

+2 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-13099[F],13098 dated 23/03/2021)

CRL OP(MD) .Nos.2867 and 2868 of 2021
Date : 22/03/2021

NS (CO)
KB(29.03.2021) 3P 6C