



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 06.07.2021

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THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

WEB COPY

Cr1.RC(MD)No.362 of 2021

and

Cr1.MP(MD)No.3631 of 2021

M.P.Ragavan : Petitioner/Petitioner/Appellant

Vs.

Karuppaiah : Respondent/Respondent/Respondent

Prayer: Criminal Revision filed under section 397 and 401 of the Code of the Criminal Procedure, to call for the records in respect of the conditions in Para 5 of the impugned order passed by the learned Additional District Judge, Sivagangai, in Cr.M.P.No.1277 of 2021 in C.A No.08 of 2021, dated 07.04.2021 against the CC No.165 of 2018 on the file of the learned Judicial Magistrate No.1, Sivagangai, dated 08.,03.2021 and set aside the same.

For Petitioner : Mr.RM.Arun Swaminathan

For Respondent : Mr.G.Karuppasamy Pandian

O R D E R

This Criminal Revision is filed against the condition imposed on the petitioner in the impugned order to the effect that the petitioner shall pay 20% of the compensation amount, for granting suspension of sentence, before the Judicial Magistrate No.1, Sivagangai, passed by the learned Additional District Judge, Sivagangai, in Cr.M.P.No.1277 of 2021 in C.A No.08 of 2021, dated 07.04.2021 against the CC No.165 of 2018 on the file of the learned Judicial Magistrate No.1, Sivagangai, dated 08.03.2021.

2.The petitioner was convicted by the Judicial Magistrate No.1, Sivagangai and sentenced him to undergo SI for the period of six months and to pay a compensation to the tune of Rs.7,00,000/- to the complainant within a period of two months from the date of judgment, in default whereof to undergo further period of SI for two months for the offence under section 138 of the Negotiable Instruments Act. Against which, the petitioner filed petition seeking suspension of sentence against the conviction and sentence passed by the Judicial Magistrate No.1, Sivagangai, in CC No.165 of 2018 by judgment, dated 08.03.2021. Being aggrieved by the condition imposed in the order, the petitioner is before this court.

<https://hcservices.ecourts.gov.in/hcservices/>

3.Heard the learned counsel appearing on either side and perused the materials available on record.



4. The main contention of the petitioner is that as per section 389 of the Criminal Procedure Code, at the time of passing order of suspension, the condition imposed on the petitioner to deposit the amount is against rule of law, but the trial court imposed the condition on passing the suspension order to deposit 20% of the amount, which is not correct and prays for allowing the criminal revision by setting aside the above condition.

5. Per contra, on the side of the respondent, it is argued that as per section 148 of the Negotiable Instruments Act, while passing suspension of sentence, some amount has to be deposited as conditional order.

6. At this juncture, it is necessary to refer section 148 of the Negotiable Instruments Act, which would run thus:-

"148. Power of Appellate Court to order payment pending appeal against conviction-(1) Notwithstanding anything contained in the Code Criminal Procedure, 1973 (2 of 1974), in an appeal by the drawer against conviction under section 138, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty per cent, of the fine or compensation awarded by the trial court.

(2)...

(3)...

7. On coming to the instant case on hand, the trial court while granting suspension of sentence, has rightly imposed condition to the effect that the petitioner shall deposit 20% of the compensation amount before the learned Judicial Magistrate No.1, Sivagangai. This court finds no error in the order of the court below.

8. In the result, this Criminal Revision is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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.



To,

1.The Additional District Judge,
Additional District Court, Sivagangai.

2.The Judicial Magistrate No.1,
Sivagangai.

Copy to

The Section Officer, criminal Section, records (2C)
Madurai Bench of Madras High Court, Madurai

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KB (13.07.2021) 3P 5C