



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **28.06.2021**

CORAM:

THE HONOURABLE MR.JUSTICE **G. ILANGO VAN**

Crl.O.P.(MD)No.8373 of 2021

CRL.M.P (MD) .No.4297 of 2021

WEB COPY

O.Murugesan

... Petitioner

Vs.

R.Sangilikumar

...Respondent

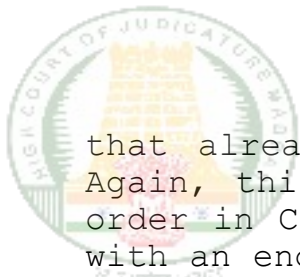
PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the entire records relating to the impugned docket order dated 17.12.2019 made in Cr.M.P.No.3800 of 2019 in C.A.No.25 of 2019 on the file of the learned Principal Sessions Court, Theni and to set aside the same.

For Petitioner : Mr.M.S.Jeyakarthik

O R D E R

This Criminal Original Petition has been filed to call for the entire records relating to the impugned docket order dated 17.12.2019 made in Cr.M.P.No.3800 of 2019 in C.A.No.25 of 2019 on the file of the learned Principal Sessions Court, Theni and to set aside the same.

2. The case of the petitioner is that the petitioner has been convicted in C.C.No.45 of 2018 by the learned Judicial Magistrate Court (FTC), Uthamapalayam under Section 138 of Negotiable Instruments Act with the punishment that the petitioner has to undergo the imprisonment of one year R.I and the petitioner has to pay a sum of Rs.6,00,000/- (Rupees Six Lakhs Only) to the respondent as compensation within two months. Against which, he has preferred an appeal in C.A.No.25 of 2019, in which, he has filed a suspension of sentence petition in Cr.M.P.No.1338 of 2019. By order dated 25.04.2019, suspension was granted on condition that the petitioner shall deposit 20% of compensation amount (i.e.,) Rs.1,20,000/- (Rupees One Lakh Twenty Thousand Rupees) before the concerned Judicial Magistrate within a period of 30 days. Because of his poverty and lockdown, the petitioner is not in a position to pay the amount in time. Therefore, the respondent filed a petition in Cr.M.P.No.3800 of 2019 in C.A.No.25 of 2019 seeking a direction to secure the petitioner that was allowed on 17.12.2019. Thereafter, the petitioner has approached this Court by way of Crl.O.P(MD) SR.No.22205 of 2020 for setting aside the order to secure and the same was returned by the Registry on 27.11.2020 for the reason that no proper impugned order was filed in the above criminal petition. Therefore, the petitioner filed a petition in Cr.M.P.Filing No.845 of 2020 in Cr.M.P.No.3800 of 2019 in C.A.No.25 of 2019 seeking extension of time to deposit compensation amount before the learned 1st Appellate Court. But the same was returned on 17.03.2021 stating



that already the order has been passed to secure the petitioner. Again, this petitioner approached this Court to set aside the said order in Crl.O.P(MD).SR.No.10418 of 2021. But the same was returned with an endorsement to file criminal revision petition under Section 397 r/w 401 of Cr.P.C. Hence, the petitioner filed revision petition in Crl.R.C.SR.(MD).No.12106 of 2021 and the same was returned with an endorsement to file petition under Section 482 of Cr.P.C. Only on that basis, he has filed the present petition.

3. Heard the learned counsel appearing for the petitioner.

4. The learned counsel appearing for the petitioner would submit that the extension of time petition filed by the petitioner was returned by the learned 1st Appellate Court, since the secure order has been passed in Cr.M.P.No.3800 of 2019. Hence, he filed the present petition.

5. In view of the above, I am of the considered view that the First Appellate Court has to give an opportunity to the petitioner to put forth his grievance by taking on file the unnumbered petition presented on 09.02.2021 seeking extension of time.

6. Reading of the endorsement shows that the maintainability of the petition has been questioned on the ground of the secure order has been passed in Cr.M.P.No.3800 of 2019. Maintainability of a petition cannot be decided at the administrative stage. It requires judicial process and the petitioner is also to re-present the petition along with the copy of this order before the concerned Court within a week from the date of receipt of a copy of this order. The learned Principal Sessions Court, Theni is directed to process the petition filed by the petitioner and decide the same on merits within a period of 15 days from the date of representation.

7. With these directions, the Criminal Original Petition stands disposed of. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ssb

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

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



order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To
The Principal Sessions Judge,
Theni District, Theni.

+1 CC to M/s.M.S.JEYA KARTHIK, Advocate (SR-20343[F] dated 28/06/2021)

Crl.O.P.(MD)No.8373 of 2021
28.06.2021

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