



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 16.09.2021

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THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

WEB COPY

Crl.RC(MD)No.440 of 2021

and

Crl.MP(MD)No.4589 of 2021

K.Ranjithkumar : Recision Petitioner/Accused
Vs.
K.Mathivanan : Respondent/Complainant

Prayer: Criminal Revision filed under section 397 and 401 & 482 of the Code of the Criminal Procedure, against the docket order, dated 15.04.2021 passed by the Judicial Magistrate Fast Track Court, Pattukottai, in STC No.60 of 2020.

For Petitioner : Mr.A.Thirumurthy
For Respondent : Mr.S.Poornachandran

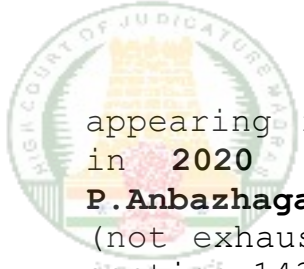
O R D E R

This Criminal Revision is filed against the docket order, dated 15.04.2021 passed by the Judicial Magistrate Fast Track Court, Pattukottai, in STC No.60 of 2020.

2.It reveals from the records that the respondent herein filed a private complaint before the Judicial Magistrate (FTC) Court, Pattukottai against the petitioner herein under section 138 of Negotiable Instruments Act, for recovery of money. The learned Magistrate took the complaint on file and assigned STC No.60 of 2020. Pending trial, on 15.04.2021, the learned Magistrate passed an interim order directing the revision petitioner/accused to pay interim compensation of Rs.5,00,000/- to the respondent/complainant. Challenging the same order, the petitioner is before this court.

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

4.The learned counsel appearing for the petitioner/accused argued that in the complaint, the complainant did not make any prayer seeking an order directing the respondent/accused to pay the interim compensation under section 143 of the Negotiable Instruments Act and hence, the impugned order *suo motu* passed by the trial court is willful exercise of the Discretionary Power and section 143 of the Negotiable Instruments Act must be supported by reasons, otherwise whole exercise becomes arbitrary and Discretionary Order without reasons, on face of it, is illegal and prays that the criminal revision has to be allowed. For that, the learned counsel



appearing for the petitioner/accused submitted the ruling reported in 2020 (2) MWN(Cr.) DCC 144 (Mad). (L.G.R Enterprises Vs. P.Anbazhagan), wherein this Court has given the illustrative reasons (not exhaustive) under which, exercise of Discretionary Power under section 143(A) of the Negotiable Instruments Act is justified, which are as follows:-

(i) The Accused person would have absconded for a long time and thereby would have protracted the proceedings, or

(ii) The Accused person would have intentionally evaded service for a long time and only after repeated attempts, appear before the Court, or

(iii) The enforceable debt or liability in a case is borne out of overwhelming materials, which the Accused person could not on the face of it deny, or

(iv) where the Accused person accepts debt or liability partly, or

(v) Where the Accused person does not cross examine the witnesses, or

(vi) Where the Accused person keeps on dragging with the proceedings by filing one Petition after another, or

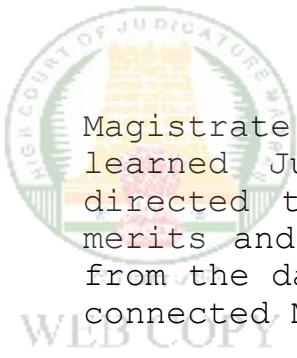
(vii) The Accused person absconds and by virtue of Non-Bailable Warrant, he is secured and brought before the court after a long time, or

(viii) The Accused person files a Recall Non-Bailable Warrant Petition after a long time and the Court while considering his petition for recalling the Non-Bailable Warrant can invoke Section 143(A) of the Negotiable Instruments Act.

5. In this case, at the time of questioning, the trial court passed the interim order *suo motu*. The reasons stated by the trial court is not proper and it used the Discretionary Power without proper manner. Further, the respondent/de-facto complainant has not filed any petition for interim compensation. Hence, it is necessary to interfere into the findings of the trial court.

6. In the result, this Criminal Revision is allowed. The impugned docket order, dated 15.04.2021 passed by the Judicial

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Magistrate Fast Track Court, Pattukkottai, is set aside. The learned Judicial Magistrate Fast Track Court, Pattukkottai, is directed to dispose of the case in STC No.60 of 2020 purely on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CSII)

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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,

The Judicial Magistrate,
Fast Track Court,
Pattukkottai.

+1 CC to M/s.A.THIRUMURTHY, Advocate
(SR-29301[F] dated 16/09/2021)

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KB (23.09.2021) 3P 3C