



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 10.11.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.728 of 2021

and

Crl.M.P.(MD)No.8264 of 2021

K.Nagendran

... Petitioner

Vs.

Jothisree

... Respondent

Prayer : This criminal revision case is filed under Sections 397 r/w. 401 of Cr.P.C., to call for the records and to set aside the impugned order passed by the learned Principal Sessions Judge, Theni in Cr.M.P.No.2886 of 2021 in C.A.No.61 of 2021 dated 15.09.2021, only with respect to the condition of deposit of 20% of the compensation.

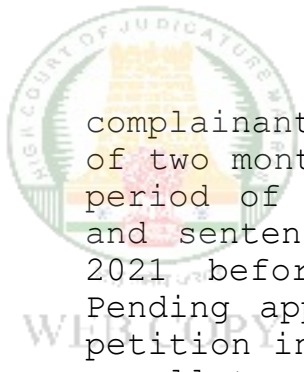
For Petitioner : Mr.Porkodi Karnan
For M/s.Polax Legal Solutions

For Respondent : Mr.T.Balarathinakumar

ORDER

This petition has been filed to set aside the order passed in Cr.M.P.No.2886 of 2021 in C.A.No.61 of 2021 dated 15.09.2021, on the file of the learned Principal Sessions Judge, Theni.

2.The case against the petitioner is that the the petitioner approached the complainant and obtained a loan of Rs.10,00,000/- (Rupees Ten Lakhs only) on 10.05.2016 and promised to repay the same within a period of six months. To discharge the above debt, the accused issued post dated cheque dated 12.11.2016 drawn on ICICI Bank, Chennai, Egmore Branch. When the complainant presented the cheque for collection, the cheque was returned with a memo with an endorsement " Account Closed". The complainant filed a case in S.T.C.No.35 of 2017 on the file of the learned Judicial Magistrate, Fast Track Court, Theni. The learned Magistrate found the petitioner guilty under Section 138 of N.I. Act and sentenced him to undergo imprisonment for a period of one year and a compensation of Rs.10,00,000/- (Rupees Ten Lakhs only) to be given to the



complainant with interest from the date of dishonor within a period of two months. Failing which, the petitioner shall undergo a further period of four months simple imprisonment. Against the conviction and sentence, the petitioner has filed an appeal in C.A.No.61 of 2021 before the Principal District and Sessions Judge, Theni. Pending appeal, the petitioner has filed a suspension of sentence petition in Crl.M.P.No.2886 of 2021. The petition was allowed by the appellate Court on certain conditions. Aggrieved by the said conditions, the petitioner has preferred this revision.

3.On the side of the petitioner, it is stated that the learned Sessions Judge imposed a condition to deposit a sum of Rs.2,87,041/- without considering that the petitioner is having a good case on merits. The learned Sessions Judge failed to consider that the deposit of conditional amount would defeat main case of the petitioner and prayed the conditions to be set aside.

4.On the side of the respondents, it is stated that as per Section 148(1) of N.I. Act, the petitioner has to deposit 25% of the amount due and hence, the condition imposed by the Appellate Court is reasonable and the counsel for the revision petitioner admitted before the Sessions Court that the petitioner is willing to deposit the minimum amount of compensation as mandated under Section 148(1) of N.I. Act and the same is incorporated in the order passed in Crl.M.P.No.2886 of 2021. Now the petitioner is not willing to comply with the condition. The complainant is an aged lady, who lost Rs.10,00,000/- and is waiting for the remedy.

5.As per Section 148(1) of N.I. Act, the revision petitioner has to deposit 25% of the award amount and hence, the condition imposed by the trial Court is reasonable. There is nothing sufficient enough to interfere in the order passed in Cr.M.P.No.2886 of 2021 in C.A.No.61 of 2021 dated 15.09.2021, on the file of the learned Principal Sessions Judge, Theni. However, time for deposit is extended. The petitioner is directed to deposit the amount within a period of 30 days from the date of receipt of copy of this order.

6.In view of the above, this Criminal Revision Case is dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

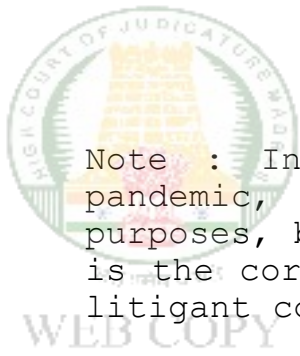
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/ /2021

Sub Assistant Registrar(CS)

Mrn

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



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 Principal Sessions Judge,
Theni.

Copy to:

The Section Officer,
Criminal Section (Records),
Madurai Bench of Madras High Court,
Madurai.

Crl. R.C.(MD)No.728 of 2021

MGJ/NS (24.11.2021) 3P 4C