



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.07.2021

CORAM

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.R.C. (MD) No.452 of 2017

S.Gopalakrishnan

... Petitioner

Vs.

R.Senthilnathan

... Respondent

PRAYER: Criminal Revision Petition filed under Section 397 Cr.P.C. r/w. Section 401 of Criminal Procedure Code, to call for the records relating to the order, dated 25.05.2017 in CrI.M.P.No.283 of 2017 in C.A.No.46 of 2017 on the file learned Vacation Session Judge, Tiruchirappalli, insofar as condition to deposit a sum of Rs.2,25,000/- before the trial Court on or before 08.06.2017 and set aside the same.

For Petitioner : Mr.AL.Kannan

For Respondent : Mr.T.Senthilkumar
Government Advocate

ORDER

This Revision Petition is filed as against the order, dated 25.05.2017 in Cr.M.P.No.283 of 2017 in C.A.No.46 of 2017 on the file learned Vacation Sessions Judge, Tiruchirappalli, insofar as the condition to deposit a sum of Rs.2,25,000/- before the Trial Court on or before 08.06.2017 and to set aside the same.

2.Heard Mr.AL.Kannan, learned Counsel appearing for the Revision Petitioner and Mr.T.Senthil Kumar, learned Government Advocate (Crl.side), appearing for the respondent.

3.The petitioner is the accused before the learned Judicial Magistrate-1, Tiruchirappalli, in S.T.C.No.61 of 2011. The case in S.T.C.No.61 of 2011, after full trial, judgment was pronounced by imposing a punishment of one year imprisonment and compensation for Rs.9,00,000/-. As against the judgment of conviction passed by the learned Judicial Magistrate-I, Tiruchirappalli, the accused preferred an appeal before the District Court in C.A.No.46 of 2017.

4.During the pendency of C.A.No.46 of 2017, the accused preferred an application in Cr.M.P.No.283 of 2017, seeking suspension of sentence imposed by the learned Judicial Magistrate-I, Tiruchirappalli, sentencing the accused to undergo one year imprisonment and a compensation of Rs.9,00,000/-. The learned Vacation Sessions Judge, Tiruchirappalli, had granted bail



suspending the order of sentence by imposing the condition to deposit a sum of Rs.2,25,000/-. Instead of depositing the amount, the accused had come before this Court by filing the above Revision Petition along with the stay petition in Crl.M.P.(MD)No.4805 of 2017.

5. When the case came up for hearing on 27.04.2021, the learned Counsel for the Revision Petitioner submitted that the parties had settled the dues. When it was sought that the affidavit along with memo to be filed by both parties, the complainant and the accused, the learned Counsel for the Revision Petitioner sought time. Therefore, time was granted till 29.04.2021. On 29.04.2021, the learned Counsel for the Revision Petitioner made a representation that his client had directed him to withdraw the Civil Revision Petition. The case was adjourned to 30.04.2021.

6. When the case came up for hearing on 30.04.2021, the Registry of this Court was directed to call for remarks from the learned Judicial Magistrate-I, Tiruchirappalli by 04.45 pm on that date itself and the case was adjourned to 04.06.2021 for further orders.

7. From 01.06.2021 to 11.06.2021, due to general lock down, the Court did not open for its normal functioning. It started functioning only from 14.06.2021. Therefore, the cases, that were posted between 01.06.2021 and 11.06.2021, were ordered to be re-posted from 02.07.2021 onwards. Accordingly, the case, that was posted on 04.06.2021, came up for consideration before this Court on 08.07.2021, as per the re-posting, that was ordered by me. Accordingly, when this case came up on 08.07.2021, the Registry had obtained remarks offered by the learned Principal District Judge, Tiruchirappalli, along with the remarks of the learned Judicial Magistrate-I, Tiruchirappalli. As per the remarks, the learned Judicial Magistrate-I, Tiruchirappalli, had stated that the accused had not complied with the order by depositing the amount of Rs.2,25,000/-.

8. Based on the facts submitted by the learned Counsel for the Revision Petitioner as well as the conduct of the Revision Petitioner in not complying with the condition of the learned Vacation Sessions Judge, Tiruchirappalli, and having filed this revision, the Revision Petitioner had cleverly protracted the proceedings without submitting to the judgment passed by the learned Judicial Magistrate-I, Trichirappalli, who had in his judgment, dated 08.05.2017, convicted the accused under Section 138 of the Negotiable Instruments Act and sentenced him to undergo one year simple imprisonment and to pay the compensation of Rs.9,00,000/- to the complainant. In the guise of agitating his right for imposing of condition in the bail by the learned Session Judge in C.A.No.46 of 2017, the revision had been filed in the year 2017 and protracted the proceedings for years together till 2021.

9. If this Criminal Revision Petition is permitted to be withdrawn, then it amounts to defrauding the complainant, who had filed complaint before the learned Judicial Magistrate, prosecuted the complaint, who had let in evidence, deposed as witnesses and on



completion of the evidence and an appreciation of evidence, the learned Judicial Magistrate had pronounced the judgment. A fair hearing was afforded to the accused. The trial had ended against the accused. Therefore, the accused had to submit to the order of the Court. Instead, having filed the appeal and a petition to suspend the conviction and sentence of imprisonment was sought. Therefore, instead of ordering Rs.9,00,000/- to be deposited, the learned Vacation Judge, Tiruchirappalli, had directed the accused to pay a sum of Rs.2,25,000/- to the complainant.

10.For imposing such a condition, the accused had filed this Revision Petition and protracted the proceedings without complying with the orders of the learned Vacation Sessions Judge, Tiruchirappalli, and not paying the dues to the complainant, thereby, evading the due process of law. He had engaged a Counsel and indulged in activities, that are contrary to the principles of fair trial and speedy trial, which is guaranteed under Article 21 of Constitution of India to the citizens of this country.

11.As per the conduct of the revision petitioner/accused, the fair trial and speedy trial is exclusively meant for accused friendly disposal and not to victim friendly. This cannot be encouraged or condoned by this Court. Therefore, having allowed the Revision Petition to be dismissed by filing a memo by the learned Counsel for the revision petitioner, the memo is recorded and the Criminal Revision Petition is dismissed as withdrawn.

12.In the light of the above, the learned Judicial Magistrate-I, Tiruchirappalli, is directed to issue warrant against the accused to order him to undergo imprisonment as per the judgment. He can be released only on payment of Rs.9,00,000/- as compensation. The condition order had not been complied with. Therefore, the learned Judicial Magistrate-I, Tiruchirappalli, is directed to issue warrant to secure the accused and forward him to the prison to undergo the imprisonment of one year and to collect Rs.9,00,000/- as compensation from him.

13.Registry is directed to send the copy of this order to the learned Principal District Judge, Trichirappalli, learned Chief Judicial Magistrate, Trichirappalli and the learned Judicial Magistrate-I, Trichirappalli for follow up through e-mail.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1. The Principal District Judge,
Trichirapalli.
2. The Chief Judicial Magistrate,
Trichirappalli.
3. The Judicial Magistrate-I,
Trichirappali.
4. The Vacation Sessions Judge,
Tiruchirappalli.

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