



Crl.O.P.Nos.18137, 18152, 18969, 19017 and 19049 of 2020

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.Nos.18137, 18152, 18969, 19017 and 19049 of 2020

and

Crl.M.P.Nos.7097, 7103, 7515, 7542 and 7596 of 2020

Dhandapani

... Petitioner (**in all Crl.O.Ps**)

Vs.

B.Srinivasan, Proprietor,
Sri Jayakumar Modern Rice Mill,
No:1/52-A, Madhavaram High Road,
Pulliline Village,
Vadakarai Post,
Chennai - 600052.

... Respondents (**in all Crl.O.Ps**)

Prayer in Crl.O.P.No.18137 of 2020: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in order dated 13.03.2020, passed by Learned Judicial Magistrate No:II, Ponneri, made in C.M.P.No:2536 of 2019 in S.T.C.No.312 of 2018 and set aside the same.



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Prayer in Crl.O.P.No.18152 of 2020: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in order dated 13.03.2020, passed by Learned Judicial Magistrate No:II, Ponneri, made in C.M.P.No:2535 of 2019 in S.T.C.No.310 of 2018 and set aside the same.

Prayer in Crl.O.P.No.18969 of 2020: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in order dated 13.03.2020, passed by Learned Judicial Magistrate No:II, Ponneri, made in C.M.P.No:2534 of 2019 in S.T.C.No.309 of 2018 and set aside the same.

Prayer in Crl.O.P.No.19017 of 2020: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in order dated 13.03.2020, passed by Learned Judicial Magistrate No:II, Ponneri, made in C.M.P.No:2533 of 2019 in S.T.C.No.313 of 2018 and set aside the same.

Prayer in Crl.O.P.No.19049 of 2020: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in order dated 13.03.2020, passed by Learned Judicial Magistrate No:II, Ponneri, made in C.M.P.No:2543 of 2019 in S.T.C.No.311 of 2018 and set aside the same.



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For all Crl.O.Ps

For Petitioner : Mr.B.Jawahar

For Sole Respondent : Mr.A.Palaniappan

COMMON ORDER

These petitions have been filed to call for the records in order dated 13.03.2020, passed by Learned Judicial Magistrate No:II, Ponneri, made in C.M.P.No:2536 of 2019 in S.T.C.No.312 of 2018, in C.M.P.No:2535 of 2019 in S.T.C.No.310 of 2018, in C.M.P.No:2534 of 2019 in S.T.C.No.309 of 2018, in C.M.P.No:2533 of 2019 in S.T.C.No.313 of 2018 and in C.M.P.No:2543 of 2019 in S.T.C.No.311 of 2018, to set aside the same, thereby directed the petitioner to deposit 20% of the cheque amount in each cases within a period of 60 days to the credit of respective cases.

2. The petitioner is an accused in all the cases in the proceedings initiated by the respondent for offence punishable under Section 138 of the Negotiable Instruments Act. In all the cases, the respondent alleged that the petitioner purchased rice in wholesale during the course of the business transaction on credit basis and he had resorted



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to issue post-dated cheques in respect of the aforesaid transactions. When the cheques were presented for collection, all the cheques were returned for insufficient funds. Hence, the respondent caused statutory notice and initiated proceedings for the offence punishable under Section 138 of the Negotiable Instruments Act. While pending the Trial, the respondent filed petition under Section 143A of the Negotiable Instruments Act, for direction directing the petitioner to make an interim compensation of 20% of the cheque amount during the pendency of the trial and the same was allowed.

3. The learned counsel for the petitioner would submit that only after the completion of Trial, it will come to know about that the respondent is entitled for compensation or not. On the beginning of Trial, there is absolutely no *prima facie* to show that the respondent is entitled for compensation. The provisions under Section 143A of the Negotiable Instruments Act contemplates that the word used as "may". Therefore, it is not automatic for the Trial Court to order for damage while pendency of the Trial. The petitioner is all along appearing before the Trial Court



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and he is always co-operating for the Trial. Therefore, there is absolutely no circumstances awarded for the Trial Court to order compensation even before the commencement of Trial.

4. In support of his contention, he relied upon the Judgment of this Court in "**Crl.O.P.No.15438 and 15440 of 2010**" by an order dated 12.07.2019. It is relevant to extract the provisions under Section 143A of the Negotiable Instruments Act

“ [143A. Power to direct interim compensation.--

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the Court trying an offence under section 138 may order the drawer of the cheque to pay interim compensation to the complainant--

(a) in a summary trial or a summons case, where he pleads not guilty to the accusation made in the complaint; and

(b) in any other case, upon framing of charge.

(2) The interim compensation under sub-section(1) shall not exceed twenty per cent. of the amount of the cheque.

(3) The interim compensation shall be paid within sixty days from the date of the order under sub-section(1), or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the drawer of the cheque..



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(4) If the drawer of the cheque is acquitted, the Court shall direct the complainant to repay to the drawer the amount of interim compensation, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant..

(5) The interim compensation payable under this section may be recovered as if it were a fine under section 421 of the Code of Criminal Procedure, 1973 (2 of 1974)..

(6) The amount of fine imposed under section 138 or the amount of compensation awarded under section 357 of the Code of Criminal Procedure, 1973 (2 of 1974), shall be reduced by the amount paid or recovered as interim compensation under this section.]”

It is inserted by Act 20 of 2018 with effect from 01.09.2018. Thus, it is clear that the word "may" shows that the discretion is vested with the Trial Court to order interim compensation. Therefore, it is not necessary that in all the cases, the Trial Court must necessarily direct the accused to pay interim compensation. It should be given only on facts and circumstances of each cases.



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5. The Judgment of this Court cited by the learned counsel for the petitioner in which this Court held that the Trial Court failed to state any reason as to why it is directed the accused persons to pay interim compensation of 20% to the complainant. When the discretionary power is vested with the Trial Court in ordering interim compensation, it must be supported by reasons. The Trial Court failed to state valid reason to order compensation and as such this Court had set aside the order passed by the Trial Court. Whereas, in the case on hand, as stated supra, the petitioner issued cheque for the purchase of rice in wholesale from the respondent. Thereafter, the petitioner failed to pay the transaction amount due to which the respondent sustained loss.

6. Therefore, considering the above facts and circumstances, the Trial Court rightly ordered compensation of 20% as contemplated under Section 143A of the Negotiable Instruments Act. Therefore, the above Judgment cited by the learned counsel for the petitioner is not applicable to the case on hand.



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7. Hence, this Courts finds no infirmity or illegality in the order passed by the Trial Court. These petitions are devoid of merits and liable to be dismissed. Accordingly, these Criminal Original Petitions are dismissed. Consequently, connected Miscellaneous petitions are closed.

22.06.2022

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
mn/cda

To

The Judicial Magistrate No:II,
Ponneri.



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G.K.ILANTHIRAIYAN, J.

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