



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2022

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THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.RC.No.643 of 2021

Crl.MP.No.10562 of 2021

1. M/s.Star Xeroxs Private Limited
Rep by its Managing Director,
Tr.R.Chandramohan

2. Tr.R.Chandaramohan

...Petitioners

Vs.

Tr.T.R.Chadrasedkaran

...Respondent

PRAYER: Criminal Revision is filed under section 397 r/w 401 of Criminal Procedure Code to set aside the judgement and order of the Learned VIth Additional Sessions Judge at Chennai FAC Court in Crl.M.P.No.5113 of 2019 on the file of the IV Additional City Civil Court, Chennai dated 26.02.2019 on the file of IV Additional City Civil Court Chennai and set aside the same as illegal without jursdiction and percurim wrong and or pass such other order.

For Petitioners : Mr.Meenakshisundaram.R.

For Respondent : Mr.SNA.Hussaini.

ORDER

(The case has been heard through video conference)

This revision has been filed against challenging the judgment passed by the VI Additional Judge, Chennai made in CRL.MP.NO.5113 of 2019 in C.A.No.23 of 2019 dated 26.02.2020 directing the petitioner to pay 20% of the compensation amount awarded by the Metropolitan Magistrate, FTC-III, Saidapet in CC.No.318/2012 dated 27.12.2018.



2. The brief facts of the case is as follows :-

The first petitioner is a private limited company and the second petitioner is the Managing Director of the first petitioner company. The respondent/complainant had filed private complaint under Section 138 of the Negotiable Instruments Act in CC.No.318 of 2012 on the file of the Metropolitan Magistrate FTC-III, Egmore, Chennai in respect of return of cheque issued by the petitioners dated 10.01.2011 for a sum of Rs.10lakhs. The trial Court had found the petitioners guilty for the offence under Section 138 of the Negotiable Instruments Act had sentenced the second petitioner to undergo six months simple imprisonment and the first petitioner was directed to pay double the amount of cheque towards compensation under Section 357(3) Cr.PC. As against the judgment of conviction and sentence the petitioners had filed appeal in C.A 23/2019 before the VI Additional Judge, Chennai, and during the pendency of the appeal the respondent had filed Crl.MP.No.5113 of 2019 seeking to direct the petitioner to pay 20% of the Compensation amount and the appellate Court by order dated 26.02.2020 had directed the petitioners/accused to deposit 20% of the compensation amount awarded by the trial Court. Challenging the above order, the present revision has been filed.

3. The learned counsel for the petitioners/accused would submit that the cheque is dated 10.01.2011 and the complaint regarding dishonour of cheque was taken on file in C.C 318/2012, Section 143A of the Negotiable Instruments Act was inserted by Act 20/2018 and had came into effect from 01.09.2018. The applicability of Section 143A of NI Act has been held to be prospective in nature where the offence were stated to be committed after the introduction of Section 143A. In this case, the cheque is dated 10.01.2011 and it has been returned on 10.06.2011 and thereby the order has to be set aside. In support of his contention, the learned counsel would rely on the judgment of the Hon'ble Apex Court in the case of G.J.Raja v. Tejraj Surana reported in 2019 (19) SCC 469.

4. Per contra, the learned counsel for the respondent/complainant would submit that the cheque is of the year 2011, the complaint was taken up on file during the year 2012 and the judgment was passed on 27.12.2018, thereafter, the appeal has been filed only during the year 2019. The order directing payment of interim compensation was made on 26.02.2020, taking advantage of the pendency of the revision petition the petitioners/accused is delaying the payment of interim compensation.

5. Heard the counsel and perused the materials available on record.



6. Admittedly, the cheque is dated 10.01.2011, which has been returned/dishonoured on 10.06.2011, Section 143A has been inserted in Negotiable Instruments Act by virtue of Act 20/2018 w.e.f. 01.09.2018. In G.J.Raja v. Tejraj Surana reported in 2019 (19) SCC 469 the Hon'ble Apex Court held Section 143-A to be prospective in operation and that the provisions of said Section 143-A can be applied or invoked only in cases where the offence under Section 138 of the Act was committed after the introduction of said Section 143-A in the Statute Book.

7. In view of the above, the revision stands allowed by setting aside the order passed in Crl.MP.No.5113 of 2020 in CA.No.23 of 2019 dated 26.02.2020 passed by the VI Additional Judge, Chennai. Since, the CC is of the year 2012, a direction is issued to the appellate Court to hear and dispose of the CA.No.23 of 2019 as expeditiously as possible, preferably within a period of two months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The VI Additional Judge,
Chennai.

2. The Metropolitan Magistrate,
FTC-III, Saidapet.

Crl.RC.No.643 of 2021

MT (CO)

PR (25/02/2022)