

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2022

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P.NO.24706 OF 2019

AND

CRL.M.P.NOS.13140 OF 2019 & 12646 OF 2021

1. M/s. A.P.R.Juniors Bagging
& Loading Contractors,
Represented by its Managing Partner,
Mr.Swarna Venkaiah,
Door No. 1 -170, B Block,
Vengala Rao Nagar, Nellore.
2. Mr.Swarna Venkaiah,
S/o. Ananda Rao,
Managing Partner,
Door No.1-170, B Block,
Vengala Rao Nagar, Nellore.
3. Mr.T.Surendra Babu
S/o. Sangaraiah
Partner, Koverapalem,
T.P.Gudur Mandal, Vellore.

... Petitioners/Petitioners/
Appellants (Accused)

Vs.

M/s. K.R.Metal Engineering Company
Represented by its Proprietor S.Abdul Kapoor,
Plot No.6 to 8, Murugan Nagar, Vazhuthalambedu,
Thirumudivakkam, Chennai.

... Respondent/
Respondent/ Respondent
(Complainant)

PRAYER:

Criminal Original petition has been filed under Section 482 of Cr.P.C, prayed to modify the condition imposed in C.M.P.No.2613 of 2019 in C.A.No.51 of 2019 dated 23.05.2019 on the file of the District and Sessions Judge of Kancheepuram at Chengalpet.

For Petitioners : Mr.Bejjam Raju

For Respondent : Mr. T.K.Kulasekaran

ORDER

This Criminal Original Petition has been filed to modify the condition imposed in C.M.P.No.2613 of 2019 in C.A.No.51 of 2019 dated 23.05.2019 on the file of the District and Sessions Judge of Kancheepuram at Chengalpet.

2. When the case came up for hearing, learned counsel for the petitioners submitted that the petitioners are the Accused before the learned Judicial Magistrate, Alandur. The case is borne out of private complaint under Section 138 of Negotiable Instruments Act. After due trial, the petitioners herein, who were facing trial, suffered by the Judgment of Conviction and against which, he had filed an appeal. In the Judgment of Conviction, imprisonment of one year and compensation of Rs.4,00,000/- was awarded under Section 357 of Cr.P.C.

3. Learned counsel for the petitioner further submitted that in due course of trial, Rs.6,00,000/- was paid in instalments. Therefore as on date only Rs.4,00,000/- is remaining. Accordingly, he had suffered conviction against which he had filed appeal before the Sessions Judge, Kanchipuram District and now Chengalpet District. At the time of entertaining the appeal, the Appellate Court suspended the Sentence of Imprisonment awarded by the trial Court. The order passed by the learned Sessions Judge in Crl.M.P.No.2613 of 2019 reads as follows:

Accordingly, the execution of sentence of imprisonment in respect of the petitioners is suspended on their executing a bond for Rs.10,000/- each with two sureties each for a like sum to the satisfaction of Judicial Magistrate, Fast Track Court (Magisterial Level), Alandur. However the petitioners are directed to deposit a sum of Rs.1,00,000/- before the trial

court towards compensation amount within one month. The petitioners are directed to appear before this Court on 26.07.2019 and also on subsequent hearing dates. The Judicial Magistrate, Fast Track Court (Magestrial Level), Alandur is directed to intimate about the deposit of amount of Rs.1,00,000/- paid by the Petitioners/Accused to this Court at once after the deposit.

4. The above said order is felt onerous by the Accused/Appellant. Therefore, while pending C.A.No.51 of 2019 on the file of the learned Sessions Judge, Chengalpet, he had moved the present petition seeking modification of the condition imposed in CrI.M.P.No.2613 of 2019.

5. The learned counsel for the petitioner relied on Section 143 A (2) of Negotiable Instruments Act, interim compensation under Sub-section (1) shall not be exceeded 20% amount of the cheque.

6. Considering the above, balance amount as per the Judgment of the trial court is only Rs.4,00,000/-. Instead of Rs.4,00,000/-, the learned Sessions Judge granting bail by way of Suspension of Sentence, the condition imposed by the trial Court on the petitioner to deposit Rs.1,00,000/- which amounts to 1/4th of the balance amount. Also, the learned counsel for the Petitioner submits that during the pendency of the appeal, he undertakes to settle the dues and dispose of the appeal at the shortest time.

7. The learned counsel for the respondent by way of reply objects the submission of the learned counsel for the petitioner stating that the amount that was admitted by the petitioner was paid in instalments only. Only after filing of the complaint, during the pendency of the trial, the Order passed by the learned Sessions Judge in C.A.No.51 of 2019 is justified. Only on the earlier occasion, when the case in CrI.O.P came up for hearing, on 22.12.2021 in the presence of the presiding Judge, the petitioner undertook to deposit half of the amount that was imposed as compensation by the trial Court. Now, he attempts to seek modification of the order passed in CrI.M.P.No.2613 of 2019.

8. Considering the rival submissions and considering the stage of the case before the learned Sessions Judge, Chengalpet District and the pendency of the Appeal, the condition imposed in CrI.M.P.No.2613 of 2019 regarding deposit of Rs.1,00,000/- (Rupees One Lakh only) alone is modified to deposit Rs.50,000/- (Rupees Fifty Thousand only).

9. The petitioners are directed to cooperate with the trial for early disposal of the case.

10. The District and Sessions Judge of Chengalpet is directed to dispose of the case within a period of three months from the date of receipt of a copy of this order.

With the above observations and directions, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

dh

To

1. The District and Sessions Judge,
District and Sessions Court,
Kancheepuram at Chengalpet District.

+1cc to Mr. T.K.Kulasekaran, Advocate, S.R.No.21329

Crl.O.P.No.24706 of 2019

SKM(CO)
PM/18/04/2022