



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2022

CORAM:

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

Crl.R.C. (MD)No.281 of 2022

V.Senthilvel

... Petitioner/Appellant/Accused

Vs

K.Eashwaran

... Respondent/Respondent/Complainant

Prayer: This Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C., to call for the entire records pertaining to the order Dated. 14.02.2022 made in Crl.M.P.No. 292 of 2022 in Crl.A.No. 16 of 2022 on the file of the learned Principal District and Sessions Judge, Srivilliputhur, Virudhunagar and set aside.

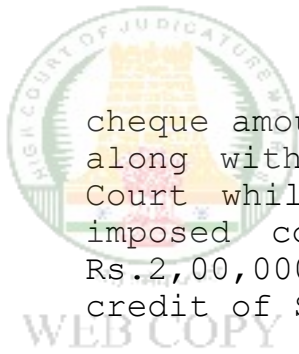
For Petitioner : Mr.R.Niresh Kumar

O R D E R

This Criminal Revision Case has been filed challenging the impugned order dated 14.02.2022 made in Crl.M.P.No. 292 of 2022 in Crl.A.No. 16 of 2022 on the file of the learned Principal District and Sessions Judge Srivilliputhur Virudhunagar, thereby, suspending the sentence on condition to deposit a sum of Rs.2,00,000/- (Rupees Two Lakhs).

2.The respondent is the complainant and the petitioner is the accused. The respondent lodged a complaint for the offence under Section 138 of Negotiable Instruments Act, alleging that the respondent and the petitioner had entered into an agreement for supply of machineries. Accordingly, the respondent agreed to pay Rs.10,00,000/- (Rupees Ten Lakhs), in which Rupees four lakhs to be paid as advance and the remaining amount to be paid, within a period of six months. Accordingly, the respondent on various occasions paid a sum of Rs.6,00,000/- (Rupees Six Lakhs) and thereafter, the petitioner failed to supply machineries. In order to repay the amount, which was paid by the respondent, the petitioner issued a cheque for a sum of Rs.10,00,000/- (Rupees Ten Lakhs) and the same was presented for collection. It was returned dishonoured for the reason 'funds insufficient'. After causing statutory notice, the respondent lodged a complaint for the offence under Section 138 of Negotiable Instruments Act.

3.On perusal of oral and documentary evidence, the trial Court convicted the petitioner and sentenced him to undergo simple imprisonment for one year and also awarded compensation of the



cheque amount. Aggrieved by the same, the petitioner filed an appeal along with suspension of sentence petition. The first appellate Court while considering the petition for suspension of sentence, imposed condition that the petitioner shall deposit a sum of Rs.2,00,000/- (Rupees Two Lakhs), before the trial Court to the credit of S.T.C.No. 282 of 2021, within a period of one month.

4.The learned counsel appearing for the petitioner would submit that even the respondent stated in his complaint that he paid only a sum of Rs.6,00,000/- (Rupees Six Lakhs), whereas the cheque was issued by the petitioner for a sum of Rs.10,00,000/- (Rupees Ten Lakhs). Therefore, he has got very good case to succeed in the appeal. Even then, the first appellate Court imposed condition to pay a sum of Rs.2,00,000/- (Rupees Two Lakhs). Even as per the complaint, the respondent paid a sum of Rs.6,00,000/- (Rupees Six Lakhs) to the petitioner and as such the trial Court rightly imposed condition that the petitioner shall deposit a sum of Rs.2,00,000/- (Rupees Two Lakhs), for suspending the sentence. Therefore, this Court finds no infirmity or illegality in the order passed by the Court below.

5.Accordingly, this Criminal Revision Case is dismissed. However, the time granted by the first appellate Court to deposit the conditional amount i.e., Rs.2,00,000/- (Rupees Two Lakhs), is extended till 29.03.2022. Failing which, the order of suspension shall stand cancelled automatically without any further reference to this Court.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PNM

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

The Principal District and Sessions Judge,
Srivilliputhur Virudhunagar.

ORDER IN
Crl.R.C. (MD) No.281 of 2022
22.03.2022

kmk (CO)
TR(22.03.2022) 3P 2C