



Crl.O.P.(MD)No.11472 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.07.2022

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P(MD)No.11472 of 2022

P.Raja

... Petitioner

Vs.

K.Guruvalakshmanan

...Respondent

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C to direct the learned Additional District and Sessions Judge, Theni to accept the petition filed by the petitioner in unnumbered criminal miscellaneous petition in Crl.M.P.No.536 of 2021 in Crl.A. No. 21 of 2021 and consequently direct the learned Additional District and Session Judge, Theni, to number the petition filed by the petitioner.

For Petitioner : Mr.S.Gokul Raj

ORDER

This Criminal Original Petition has been filed to direct the learned Additional District and Sessions Judge, Theni to accept the petition filed by the



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petitioner in unnumbered criminal miscellaneous petition in Crl.M.P.No.536 of 2021 in Crl.A. No. 21 of 2021 and consequently direct the learned Additional District and Session Judge, Theni, to number the petition filed by the petitioner.

2. The learned counsel appearing for the petitioner submitted that the respondent herein had filed a complaint under Section 138 of Negotiable Instrument Act against the petitioner and the case was taken on file in S.T.C.No. 83 of 2019 before the Judicial Magistrate Court (FTC), Theni. After trial, the Trial Court convicted and sentenced him to undergo one year simple imprisonment and imposed fine for a sum of Rs.10,00,000/- in default to undergo simple imprisonment for three months. Against the aforesaid order, the petitioner filed appeal in C.A.No.21 of 2021 along with suspension of sentence petition in Crl.M.P.No.536 of 2021 before the Additional District and Sessions Judge, Theni. In the above petition, the Additional District and Sessions Judge directed to deposit 20% to the S.T.C.No.83 of 2019 before the Judicial Magistrate Court (FTC), Theni. On 21.04.2021, the petitioner complied the order and paid Rs.2,28,356/- before the Judicial Magistrate (FTC), Theni. After hearing the appeal, the Additional District and Session Judge, Theni allowed the appeal preferred by the petitioner and acquitted the petitioner from the case.



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Thereafter, the petitioner filed unnumbered criminal miscellaneous petition in Crl.M.P.No.536 of 2021 in C.A.No.21 of 2021 on the file of Hon'ble Additional District and Sessions Judge, Theni, seeking the relief to return the deposited amount of Rs.2,28,356/- on the ground that the petitioner was acquitted. The grievance of the petitioner is that the learned Additional District and Sessions Judge refused to receive the petition filed by the petitioner. Aggrieved over the same, the present Criminal Original Petition has been filed.

3. I have considered the submission of the learned counsel appearing for the petitioner and perused the records.

4. Perusal of the records reveals the fact that the petitioner is an accused in S.T.C.No.83 of 2019 on the file of Judicial Magistrate Court (FTC), Theni. The respondent preferred a private complaint against the petitioner under Section 138 of Negotiable Instrument Act. After trial, the petitioner accused was convicted and sentenced to undergo one year simple imprisonment and imposed fine for a sum of Rs.10,00,000/- in default to undergo simple imprisonment for three months. Against the aforesaid order, the petitioner filed appeal in C.A.No.21 of 2021 along with suspension of sentence petition in



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CrI.M.P.No.536 of 2021 before the Additional District and Sessions Judge,

Theni. In the above petition, the Additional District and Sessions Judge directed the petitioner to deposit 20% to the S.T.C.No.83 of 2019 before the Judicial Magistrate Court (FTC), Theni. In pursuance of the order, the petitioner accused deposited a sum of Rs.2,28,356/- (Rupees Two Lakhs Twenty Eight Thousand and Three Hundred and Fifty Six only) on 21.04.2021. The Additional District and Sessions Judge (FTC), Theni allowed the appeal and acquitted the accused on 06.09.2021 and set aside the conviction sentence. Hence the petitioner filed an application in CrI.M.P.No.536 of 2021 in C.A.No. 21 of 2021 to refund the deposit amount of Rs.2,28,356/- (Rupees Two Lakhs Twenty Eight Thousand and Three Hundred and Fifty Six only). The Additional District and Sessions Judge refused to receive the petition for consideration. While presenting the petition, the learned Additional District and Sessions Judge directed the counsel for the petitioner to present the petition before the Judicial Magistrate Court (FTC), Theni. Accordingly, the learned counsel for the petitioner presented the petition before the Judicial Magistrate Court (FTC), Theni. The Judicial Magistrate returned the petition on 11.07.2022 stating that the CrI.A.(MD).No.113 of 2022 is pending, hence the petition returned.



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5. In view of the above, this Court directs the learned Additional District and Sessions Judge, Theni to receive the petition in Crl.M.P.No.536 of 2021 in C.A.No.21 of 2021 and number it, after hearing the counsel for the petitioner and pass orders on merits within a period of two (2) weeks from the date of receipt of a copy of this order.

6. With the above directions, this Criminal Original Petition is allowed.

13.07.2022

Index : Yes / No
Internet : Yes/ No
Nsr

To

The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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V.SIVAGNANAM, J.

Nsr

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