



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C. (MD)No.951 of 2021

Chakkaravarthi

... Petitioner/Petitioner/
Complainant

Vs.

S.Arumugam Pillai

... Respondent/Respondent
Accused

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, setting aside the order, dated 20.10.2021 made in Crl.M.P.No.3171 of 2021 in S.T.C.No.828 of 2016, on the file of the Judicial Magistrate No.1, FTC AT M.L, Madurai.

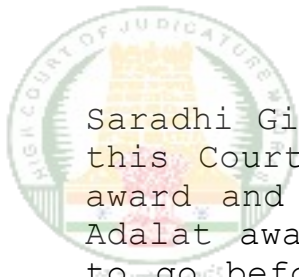
For Petitioner : Mr.V.Murugan

O R D E R

This petition has been filed to set aside the order, dated 20.10.2021 made in Crl.M.P.No.3171 of 2021 in S.T.C.No.828 of 2016, on the file of the Judicial Magistrate No.1, FTC AT M.L, Madurai.

2. The case of the prosecution is that the petitioner is the complainant and the respondent is the accused in the proceeding initiated under Section 138 of Negotiable Instruments Act, by the petitioner herein in S.T.C.No.828 of 2016. While pending trial, it was referred before the Lok Adalath and a settlement was reached between the parties, wherein, it was mutually agreed between the petitioner and the respondent to compromise the matter for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) as one time final settlement. It was further agreed in the said Lok Adalat award that the respondent is liable to pay the agreed sum of Rs.5,00,000/- (Rupees Five Lakhs only) in two equal installments each with Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only) to be paid on 10.06.2021 and 10.08.2021 respectively. Further, it was also agreed between the parties that in the event of default in payment of the agreed installment, the petitioner is entitled to either re-open the complaint or file an Execution Petition before the competent civil Court. However, the Court below rightly dismissed the same stating the order passed by this Court in the

case of judgment M/S.Valarmathi Oil Industries & Anr. Vs. M/S.



Saradhi Ginning Factory reported in 2009 MLJ Cri (3) 594, wherein, this Court, as per the award, the parties had agreed to pay the award and thereafter, failed to pay the amount. Therefore, Lok Adalat award may be treated as a decree and directed the parties to go before the Civil Court to execute the decree as stated in the award passed by the Court below. There is a specific default clause if the accused fail to perform his obligation, the petitioner is entitled to either prefer a complaint or to file the execution petition before the Civil Court. Therefore, the petitioner had availed the first option and filed the petition to reopen the S.T.C.No.828 of 2016. In fact, even before this Court, after receipt of the notice, the respondent appeared before this Court either by counsel or by person. It shows that the respondent after having been settled the matter before Lok Adalat and to settle cheque amount thereafter, he failed to settle the amount and also escaped from the clutches of law. Further, it shows that only to escape from the clutches of law he entered compromise agreement before the Lok Adalat.

3. In view of the above order passed by the learned Judicial Magistrate No.1, FTC AT M.L, Madurai, in Crl.M.P.No.3171 of 2021 in S.T.C.No.828 of 2016, dated 20.10.2021 is set aside and the trial Court is directed to take complaint on file and issue fresh notice to the petitioner and the respondent and complete the trial within a period of three months from the date of receipt of copy of this order.

4. With the above direction, the Criminal Revision Case is allowed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

mga

To:-

1. The Judicial Magistrate No.1, FTC AT M.L. Madurai.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

JUDGMENT MADE IN
Crl.R.C. (MD)No.951 of 2021
17.03.2022

USK/07.04.2022/2P/3C