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Crl.O.P No.5614 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.5614 of 2022

and

Crl.M.P.No.3092 of 2022

V.Rani

D/o.Veeramuthu

... Petitioner

vs.

G.Chidhambaram

S/o.Ganapathy

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to set aside the order dated 06.12.2021 passed in Crl.M.P.No.2707 of 2021 in STC No.587 of 2019 by learned Judicial Magistrate I, Virudhachalam and allow the said Crl.M.P.No.2707 of 2021 filed by the petitioner.

For Petitioner : Mr.D.Muthuselvam

For Respondent : Mr.M.Selvam

ORDER

This Criminal Original Petition has been filed challenging the order passed by learned Judicial Magistrate I, Virudhachalam, in Crl.M.P.No.2707 of



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2021 in STC No.587 of 2019, dated 06.12.2021.

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2. The respondent has filed a complaint against the petitioner for offence u/s.138 of the Negotiable Instruments Act. During the pendency of the case, the petitioner filed Crl.M.P.No.2707 of 2021 in STC No.587 of 2019 to send the subject cheque for expert opinion for comparison of the signature. This application was allowed by the Court below by order dated 06.12.2021. However, while allowing the application, the Court below *suo motu* ordered for payment of interim compensation u/s.143-A of the Negotiable Instruments Act and thereby, directed the petitioner to pay a sum of Rs.40,000/- as interim compensation within 60 days. This portion of the order has been put to challenge in the present Criminal Original Petition.

3. Heard Mr.D.Muthuselvam, learned counsel for petitioner and Mr.M.Selvam, lerned counsel appearing for respondent.

4. It is seen from records that the respondent/complainant had initially filed an application in Crl.M.P.No.667 of 2021 seeking for interim compensation u/s.143-A of the Negotiable Instruments Act. This application was considered by the Court below and by an order dated 08.09.2021, the Court found that the interim compensation sought for by the respondent/complainant,



is not warranted on the facts of the case. While so, while allowing the application filed by the petitioner seeking for expert opinion, the Court below, by order dated 06.12.2021, *suo motu* directed for payment of interim compensation by the petitioner. This order was passed within a span of three (3) months from the earlier order dismissing the petition in Crl.M.P.No.667 of 2021.

5. The payment of interim compensation u/s.143-A of the Negotiable Instruments Act is a discretion that has been given to the learned Magistrate. This Court in ***L.G.R. Enterprises and Ors. v. P.Anbazhagan*** [2019 (4) LW 44] has examined as to how such a discretionary remedy should be exercised. The Bombay High Court in ***Ashwin Ashokrao Karokar v. Laxmikanth Govind Joshi*** [2022 (2) MWN (Cri.) DCC 184] has held that the direction to pay interim compensation is not mandatory in nature and if such a relief is granted, the Court has to necessarily record its reasons. This is, in view of the fact that the reasons for exercising such a discretionary power must be spelt out in the order.

6. In the instant case, the learned Magistrate has not assigned any reason as to why the interim compensation was awarded in favour of the complainant. In the last portion of the order, the learned Magistrate straightaway exercised



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suo motu power and ordered for interim compensation. Such grant of interim compensation without assigning any reasons, suffers from illegality. Hence, the last portion of the order granting interim compensation is liable to be interfered with by this Court. Learned Magistrate has virtually granted a relief to the complainant in a petition filed by the accused.

7. In the light of the above discussion, the last portion of the order granting interim compensation in favour of the complainant is hereby set aside. There shall be a direction to get expert opinion and the Court below shall proceed further with the trial. The proceedings in STC No.587 of 2019 shall be completed within a period of three (3) months from the date of receipt of a copy of this order.

In the result, this Criminal Original Petition is allowed in the above terms. Consequently, connected miscellaneous petition is closed.

11.07.2023

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
gm



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To

The Judicial Magistrate I,
Virudhachalam.



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N. ANAND VENKATESH., J

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