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Crl.OP.No.5834 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.5834 of 2023
and Crl.M.P.No.3663 of 2023

P.Wilson

... Petitioner

Vs.

A.Porchezhiyan

... Respondent

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to set aside the order dated 10.02.2023 made in C.R.P.No.28 of 2022 on the file of the learned I Additional District Judge, Tiruvallur by allowing this Criminal Original Petition.

For Petitioner	: Mr.S.Kousik
For Respondent	: No appearance

ORDER

This Criminal Original Petition has been filed to set aside the order dated 10.02.2023 made in C.R.P.No.28 of 2022 on the file of the learned I Additional District Judge, Tiruvallur by allowing this Criminal Original Petition.



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2.It is the submission of the learned counsel for the petitioner that the respondent filed Crl.M.P.No.1282 of 2022 in S.T.C.No.12 of 2022 under Section 143-A of Negotiable Instruments Act, seeking interim compensation. That petition was dismissed by the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Tiruvallur on 26.08.2022. Respondent filed C.R.P.No.28 of 2022 challenging the order passed in Crl.M.P.No.1282 of 2022. The learned I Additional District Judge, Tiruvallur (FAC) allowed the petition on 10.02.2023 and directed the petitioner to pay 20% of the cheque amount as interim compensation under Section 143-A of Negotiable Instruments Act. Therefore, this petition is filed challenging the aforesaid order.

3.It is the submission of the learned counsel for the petitioner that there is no valid reason given for fixing 20% of the cheque amount. Citing the other criminal complaint, and coming to the conclusion that petitioner has bad antecedents is not warranted in this case. Therefore, he prayed for setting aside the order of learned I Additional District Judge, Tiruvallur and for allowing this petition.



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4. Section 143 (A) of Negotiable Instruments Act reads as follows:-

143A.(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Court trying an offence under Section 138 may order the drawer of the cheque to pay interim compensation to the complainant.

a) in a summary trial or a summons case, where he pleads not guilty to the accusation made in the complaint and

b) in any other case, upon framing of charge.

2) The interim compensation under Sub-Section (1) shall not exceed twenty percent of the amount of the cheque.

....

This Section makes it clear that, the Court trying the offence under Section 138 may order the drawer of the cheque to pay interim compensation to the complainant not exceeding 20% of the amount of the cheque.



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5. Though, the learned I Additional District Judge, Tiruvallur (FAC) referred about the cases pending against the petitioner, recorded a finding that petitioner is habitual offender and bad antecedents, further observed that petitioner failed to satisfactorily establish his case with regard to missing of the cheque. It is seen from the order that the case of the petitioner is that he missed the cheque while travelling and that is used for filing this case. However, it was found that petitioner has not given any Police complaint with regard to missing of the cheque, nor did he inform his Banker about the missing of the cheque. Finding that the defense taken by the petitioner is not acceptable and there is *prima-facie* case for prosecuting the petitioner under Negotiable Instruments Act, the learned I Additional District Judge, Tiruvallur (FAC), ordered payment of interim compensation of 20 % of cheque amount. In the considered view of this Court, the order of the learned I Additional District Judge, Tiruvallur (FAC), does not suffer from any illegality or irregularity, warranting interference by this Court. The order was passed on the facts available and in the light of Section 143 (A) of Negotiable Instruments Act.



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6.In this view of the matter, the order dated 10.02.2023 in C.R.P.No.28 of 2022 passed by the learned I Additional District Judge, Tiruvallur, is confirmed. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed. Petitioner is given four weeks time to deposit 20% of the cheque amount from the date of receipt of copy of this order.

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Index : Yes / No
Speaking / Non Speaking order
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G.CHANDRASEKHARAN,J.

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