



Crl.O.P.No.15461 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.15461 of 2023

B.Gajanandham

... Petitioner

Vs.

V.Govindan

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to set aside the Order dated 23.03.2023 passed in C.M.P.No.9947 of 2022 in C.C.No.323 of 2021 by the learned Judicial Magistrate No.2 at Chengalpattu and allow this Crl.O.P. on the file of this Hon'ble Court and consequently, direct the respondent / accused to pay the Interim Compensation as sought for.

For Petitioner : Mr.P.Kamarasu

For Respondent : -



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ORDER

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This petition has been filed challenging the order passed by the Court below dismissing the application filed by the petitioner in Crl MP No.9947 of 2022 dated 23.03.2023 seeking for the payment of 20% of the cheque amount as interim compensation.

2. The learned counsel for the petitioner submitted that the Court below went wrong in rejecting the application. That apart, even after the dismissal of the application, the accused person absented himself continuously and non-bailable warrant was issued against the accused person and it was recalled by an order dated 27.06.2023. The learned counsel therefore submitted that the attitude of the accused person, clearly warrants a direction for payment of interim compensation to the petitioner.

3. In the considered view of this Court, the order passed by the Court below in CMP No.9947 of 2022 dated 23.03.2023, does not require any interference. However, the petitioner has brought to the notice of this Court that the accused person had absented himself continuously resulting



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in the issuance of a non-bailable warrant and it was recalled by the Court below only on 27.06.2023. In view of the same, it is always left open to the Court below to take into consideration the attitude of the accused and the facts and circumstances of the case to decide on the payment of interim compensation to the petitioner.

4. Section 143 A was inserted into the Negotiable Instruments Act with effect from 01.09.2018, with a view to provide an interim remedy to the complainant, where a complaint is filed under Section 138 of the Negotiable Instruments Act (hereinafter called as the "Act"). A discretion is given to the Magistrate while exercising jurisdiction under directory Section 143 A of the Act. The provision is only directory and it not mandatory and if the interim compensation is granted, the Court has to record its reasons. In view of the same, it is always left open to the Court to see the defense that has been taken by the accused by way of issuing a reply notice and also the attitude of the accused person during the course of the proceedings. If the accused person wants to drag on with the proceedings without any valid defence, it is always left open to the Court below to exercise its discretion under Section 143 A of the Act.



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Accordingly, the dismissal of the earlier petition in CMP No.9947 of 2022 will not stand in the way of the Court to take into consideration the attitude of the accused person during the course of the proceedings.

5. In the light of the above discussion, if the petitioner moves any petition seeking for interim compensation at a future point of time and the Court finds that the accused person is not co-operating for the completion of the Trial and the disposal of the case, the application shall be heard and the discretion shall be exercised by the Court below.

6. This Criminal original petition is disposed of in the above terms.

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Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No

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To

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1. The learned Judicial Magistrate No.2 at Chengalpattu.
2. The learned Public Prosecutor, High Court, Madras.



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N.ANAND VENKATESH, J

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