



CRL. OP No.21517 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **18.07.2023**

CORAM:

THE HONOURABLE MR.N.ANAND VENKATESH

CRL. OP No.21517 of 2022

Jayamurugan : Petitioner
versus

Maruthamuthu : Respondent

Petition filed to set aside the docket entries made in C.M.P.No.1436 of 2020 in S.T.C.No.230/2016 dated 28.04.2021 on the file of the Judicial Magistrate No.II, Pollachi and direct the trial court to permit the petitioner to withdraw the amount deposited by the petitioner for a sum of Rs.50,000/- (Rupees Fifty Thousand Only) without insisting to appear before the Court.

For Petitioner : Ms.N.Umapathi

For Respondent : No appearance

ORDER

This petition has been filed challenging the docket order passed by the Court below, dated 28.04.2021.



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2. The respondent filed a private complaint against the petitioner for offence under Section 138 of the Negotiable Instruments Act, 1881. The Trial Court convicted the petitioner and sentenced him to undergo one year simple imprisonment and to pay compensation of a sum of Rs.5,00,000/- by judgment dated 03.05.2018. Aggrieved by the same, the petitioner has filed an appeal in Criminal Appeal No.204 of 2018 before the District Judge, Coimbatore. The petitioner also filed an application for suspension of sentence and the same was allowed by order dated 31.05.2018, on condition that the petitioner deposits a sum of Rs.50,000/- before the Trial Court. This condition was duly complied with by the petitioner.

3. There was a compromise between the petitioner and the respondent and the petitioner paid all the dues to the respondent as per the compromise. Thereafter, the petitioner has filed CMP.No.1436 of 2020 before the Court below seeking for the return of the sum of Rs.50,000/- that was deposited by the petitioner. Notice was ordered to the respondent and the respondent also filed a memo before the Court below stating that he has no objection for the petitioner to withdraw the amount.



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4. The grievance of the petitioner is that the trial court failed to return back the amount on the ground that an NBW was pending against the petitioner and the trial court was insisting for the appearance of the petitioner. Aggrieved by the same, this Criminal Original Petition has been filed before this Court.

5. Heard the learned counsel for the petitioner. The respondent has been served with notice and his name has also been printed in the cause list and the respondent is neither present in person nor through counsel.

6. In the considered view of this Court, the Trial Court ought to have permitted the petitioner to withdraw the amount without standing on technicalities. The parties have already compromised the dispute and therefore there is no reason for insisting the presence of the petitioner before the Trial Court.

7. In view of the above, there shall be a direction to the learned Judicial Magistrate No.II, Pollachi, to permit the petitioner to withdraw the amount deposited by the petitioner in STC.No.230 of

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N.ANAND VENKATESH, J.

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petitioner shall file a memo before the Trial Court and the same shall be entertained and the petitioner will be allowed to withdraw the amount.

8. This Criminal Original Petition is disposed of with the above directions.

18.07.2023

mrn

To

- 1.The Judicial Magistrate No.II, Pollachi
- 2.The Public Prosecutor, Madras High Court

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