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Crl.M.P.No. 12763 of 2023

in

Crl.A.No. 394 of 2022

M.NIRMAL KUMAR, J.

The learned counsel for the petitioner submits that the respondents had filed private complaint under Section 138 of the Negotiable Instruments Act against the petitioners in STC.No.6 of 2016 before the Judicial Magistrate, Fast Track Court - I, Thiruvallur. The Trial Court dismissed the complaint of the respondent, acquitted the petitioners, against which, the respondent had filed an appeal before the Sessions Court in C.A.No.25 of 2017.

2. The I-Additional Sessions Judge, by its judgment dated 28.03.2018 had set aside the acquittal and convicted the petitioners. Thereafter, the petitioners preferred a revision before this Court in Crl.RC.Nos.509, 511 & 744 of 2018. This Court on 23.09.2019 had passed a conditional order to deposit a sum of Rs.1,00,00,000/- in the revision and the petitioners also deposited the same. Further, when the petitioners had challenged the order before the Apex Court, the Apex Court on 18.01.2018 directed the petitioners to deposit further amount of Rs.1,00,00,000/- in total Rs.2,00,00,000/- to be deposited. In the meanwhile, the petitioners had approached the Apex Court in SLP(Cr).No.11021 of 2019 and by order dated 09.11.2021, the Apex



Court recorded the deposit of Rs.2,00,00,000/- by the petitioners and also the withdrawal of the amount of Rs.2,00,00,000/- by the respondent herein. It was only an interim order till disposal of the appeal before this Court.

3. The appeal in CA.No.394 of 2022 was dismissed on 06.09.2022. This appeal was preferred by the respondent, against which, the respondent had preferred an appeal before the Apex Court in SLP(Crl).No.6586 of 2022. The Apex Court by order dated 05.08.2024 had dismissed the appeal of the respondent / complainant and further it had recorded that on the directions of the Apex Court, the petitioners had deposited a sum of Rs.5,60,00,000/- in Crl.RC.No.509, 511 & 744 of 2018 and further it also recorded that the respondent had executed a bank guarantee before this Court and withdrawn Rs.2,00,00000/-.

4. Since the petitioners have been acquitted of all charges and there is no liability for the petitioners to pay the cheque aamount, this Court had directed the respondent / complainant to redeposit Rs.2,00,00,000/- within a period of 30 days. Failing which, the bank guarantee to be invoked. Hence, the present petition to withdraw Rs.3,60,00,000/- which is lying to the credit



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of this Court along with interest and reclaim Rs.2,00,00,000/- from the respondent.

5. Mr.C.Arunkumar, learned counsel for the respondent complainant submits that he has been prosecuting the case on behalf of the complainant before this Court till the said appeal and earlier revision. Thereafter, he had also informed the respondent / complainant about the order of the Supreme Court and also he had informed the respondent / complainant about the listing of the case. The respondent / complainant had appeared before the Apex Court and they are very much aware about the order passed by the Apex Court dated 05.08.2024 directing them to deposit the amount of Rs.2,00,00,000/-.

6. Mr.C.Arunkumar, learned counsel submitted that this was informed to them and they are also acknowledges the same and thereafter, today when the case is listed, they have not contacted him. Mr.Arunkumar also attempted to contact them and they are not responded. Hence, he is in helpless situation.



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7. In view of the same, this Court directs the Public Prosecutor to ensure the presence of the respondents to confirm whether the order of the Apex Court is complied with.

8. Registry is directed to return the amount of Rs.3,60,00,000/- to the 1st petitioner / Company as per the orders of the Apex Court dated 05.08.2024 along with interest, if any accrued.

9. List this case on 27.09.2024

12.09.2024

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