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Crl.R.C.No.1698 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1698 of 2023

V.K.Kumar Gaurav

... Petitioner

Vs.

S.Sekar

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Criminal Procedure Code, to set aside the order of near 6 months sentence / with enhancement of sentence and also award due compensation awarded recognizing the Revisional Petitioner/Complainant enhance the conviction period in the Judgment passed by the Trial Court Hon'ble FTC-II Metropolitan Magistrate Court Allikulam at Chennai in C.C.No.435 of 2018 dated 09.06.2023, has contemplated in the Negotiable Instruments Act, 1881, and further award herein, under Section 357(3) of Cr.P.C., of the judgment passed by the Trial Court.

For Petitioner : Mr.T.Suresh

ORDER

This Criminal Revision Case is filed to set aside the order of mere 6 months sentence/with enhancement of sentence and also award due compensation awarded recognizing the Revisional Petitioner/Complainant enhance the conviction period in the Judgment passed by the FTC-II Metropolitan Magistrate Court Allikulam at Chennai in C.C.No.435 of 2018, dated 09.06.2023, has contemplated in the Negotiable Instruments Act, 1881,



and further award herein, under Section 357(3) of Cr.P.C., of the judgment passed by the Trial Court.

2.The petitioner as a complainant filed a private complaint against the respondent for offence under Section 138 of the Negotiable Instruments Act, 1881 (Hereinafter referred to as 'Act' for convenience) in C.C.No.435 of 2018 before the learned Metropolitan Magistrate, Fast Track Court No.II, Egmore @ Allikulam, Chennai (trial Court). The trial Court, by judgment, dated 09.06.2023 convicted the respondent/accused and sentenced him to undergo six months Simple Imprisonment without imposing any fine or compensation. Challenging the same, the present criminal revision case.

3.The learned counsel for the petitioner submitted that the petitioner in his complaint as well as in his proof affidavit clearly prayed seeking compensation to be awarded. The trial Court not considered the same, given no reason for not awarding compensation and rendered judgment of conviction without any compensation. He further submitted that the petitioner has also filed this criminal revision seeking enhancement of punishment since the sentence of six months Simple Imprisonment is lesser. As per the Act, two years sentence can be imposed. The trial Court ought to have seen the conduct



of the respondent/accused for the reason that the case filed in the year 2018 and the judgment could be passed only after five years i.e., in the year 2023, which defeats the purpose of Section 143 of the Act wherein the time limit prescribed for completion of trial is six months.

4.The learned counsel for the petitioner fairly submitted that after filing of the present criminal revision before this Court, the respondent/accused filed an appeal against the judgment of conviction, dated 09.06.2023 before the learned XX Additional Sessions Judge, Chennai in C.A.No.378 of 2023. He further submitted that earlier, the petitioner filed an appeal against the judgment of the trial Court, dated 09.06.2023 under Section 372 Cr.P.C proviso seeking enhancement of sentence and for compensation, but the Registry of the XX Additional Sessions Court, Chennai rejected the same for the reason that the petitioner cannot file an appeal with two relief.

5.This Court considered the submissions made by the learned counsel for the petitioner and perused the materials available on record.



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6.For better appreciation, Section 372 Cr.P.C., proviso reads as follows:

“the victim shall have a right to prefer an appeal against any order passed by the Court acquitting the accused or convicting for a lesser offence or imposing inadequate compensation, and such appeal shall lie to the Court to which an appeal ordinarily lies against the order of conviction of such Court.”

7.In view of the fact that already the respondent/accused filed an appeal in C.A.No.378 of 2023 as stated above, the petitioner is directed to file an appeal seeking enhancement of sentence as well as for imposing compensation before the learned XX Additional Sessions Judge, Chennai. The Registry of XX Additional Sessions Court, Chennai shall not return the appeal of the petitioner on the ground of limitation, entertain the same and list it along with C.A.No.378 of 2023 if it is otherwise in order. The learned XX Additional Sessions Judge, Chennai to consider both the appeals together and to dispose the same, within stipulated period.



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8. With the above observations, this Criminal Revision Case is disposed of.

07.11.2023

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

Index : Yes/No

Internet : Yes/No

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To

The Metropolitan Magistrate,
Fast Track Court No.II,
Egmore @ Allikulam, Chennai.

Copy To:

The XX Additional Sessions Court,
Chennai.



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M.NIRMAL KUMAR, J.

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