



Crl.R.C. No.1516 of 2022 & Crl. M.P. No.18842 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2023

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THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

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1. M/s. Chennai Team Lines
Rep. by its Sole Proprietor,
Mr.P. Uma Maheswaran
Having its office at No.29/5,
LD.G. Road, Little mount
Saidapet, Chennai 600 015

2. Mr.P. Uma Maheswaran

...Petitioners

Vs.

K.Rajesh

...Respondent

Prayer : Criminal Revision Case filed under Section 397 Cr.P.C. against the order dated 05.08.2022 in Crl.M.P. No.12309 of 2022, on the file of Metropolitan Magistrate, Fast Track Court No.1, Egmore, Allikulam.

For Petitioners : Mr. N. Vijayakumar

For Respondent : Mr.J. Maheswaran



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ORDER

Challenge in this Criminal Revision is made against order dated 05.08.2022 in Crl.M.P. No.12309 of 2022, on the file of Metropolitan Magistrate, Fast Track Court No.1, Egmore, Allikulam.

2. The minimum facts required for disposing the present criminal revision case are as follows:

- i. The respondent/complainant filed a private complaint under Section 200 Cr.P.C. against the present revision petitioners/accused 1 and 2 before the Metropolitan Magistrate, Fast Track Court No.1, Egmore, Allikulam, in C.C. No.4358 of 2019, for an offence punishable under Section 138 of the Negotiable instruments Act for dishonoured the cheque of Rs.34 lakhs.
- ii. The learned Metropolitan Magistrate, Fast Track Court No.1, Egmore, Allikulam, took cognizance of the offence under Section



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138 of the Negotiable Instrument Act and issued summons to the accused. Even though the said summons were served on the 2nd accused, he did not appear before the court and therefore, a bailable warrant was issued against him on 0.11.2019. The bailable warrant was not executed due to COVID 19 pandemic situation and subsequently the 2nd accused surrendered on 17.04.2021 and the bailable warrant was recalled.

iii. On the appearance of the 2nd accused, copies of records were furnished to him and he was questioned with regard to the substance of accusation made against him under Section 251 Cr.P.C. Since he pleaded not guilty, the case was posted for trial.

iv. Thereafter the accused absconded resulting in issuance of non bailable warrant and after a long gap he surrendered before the court and the warrant was recalled.



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v. Subsequently the respondent/complainant filed a petition in Crl M.P. No.12309 of 2022 under Section 143 A of Negotiable Instruments Act praying to grant 20% of the cheque amount towards interim compensation. The 2nd petitioner/2nd accused filed a detailed counter stating that he never instructed the respondent/complainant to present the cheque at any point of time and he therefore not liable to pay 20% of the cheque amount.

vi. The learned trial court judge allowed the said petition and ordered the revision petitioners/ accused to deposit 20% of the cheque amount of Rs.34 lakhs towards interim compensation within 60 days from the date of the order.

vii. Aggrieved over the same, the present revision petition is filed by the accused.

3. Mr. N. Vijayakumar, learned counsel for the revision petitioners contended that the statutory notice sent by the



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respondent/complainant was not served on the 2nd accused and therefore he was not able to send any reply to the said notice. According to him when both the revision petitioners/accused are questioning their liability to pay the cheque amount, the trial court cannot grant 20% of the cheque amount towards interim compensation.

4. In the instant case , 1st accused is M/s. Chennai Team Lines, Rep. by its Sole Proprietor, Mr.P. Uma Maheswaran, having office at No.29/5, LD.G. Road, Little mount, Saidapet, Chennai 600 015. The 2nd accused in Mr.P. Uma Maheswaran. It is settled law that the proprietor and proprietorship concern are one and the same and it is not known why the complainant had shown them as two different persons in the original complaint. Be that as it may, a perusal of the records shows that the legal notice dated 13.12.2018 was actually sent to the 1st accused, namely, M/s.Chennai Team Lines, represented by its Sole Proprietor, Mr.P. Uma Maheswaran, and he refused to receive the same. The notice sent to the 2nd accused, namely, Mr.P. Uma Maheswaran to his residential address No.441, S.No.220/2, Irumbuliyur Village, Arul Nagar, East Tambaram



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was received by him. Therefore, it is clear that the 2nd accused was in know of the legal notice issued by the complainant, but, he did not choose to send any reply to the same. It is also seen from the records that the private complaint which was filed in the year 2019 has not been disposed of yet. The reason for the same is that the accused is in the habit of absconding, on account of which bailable and non bailable warrants were issued against him. Section 143(a) of the Negotiable Instruments Act was introduced by Act 20 of 2018 and was brought into effect from 01.09.2017 with an intention to pay 20% of cheque amount as compensation to the complainant during the pendency of the case. The complainant can detain the said amount only if he succeeds in the main case and if the main case is dismissed, he should return the said amount with interest as stipulated by RBI at the time of repayment of the said amount. Therefore, no prejudice would be caused to the accused by way of paying 20% of the cheque amount to the complainant especially when he had not disputed his signature on the cheque. In the circumstances, I do not see any reason to interfere with the orders passed by the trial court.



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5. In the result,

- i. the Criminal Revision is dismissed. Consequently connected miscellaneous petition is closed.
- ii. The order dated 05.08.2022 passed in Crl.M.P. No.12309 of 2022, by the learned Metropolitan Magistrate, Fast Track Court No.1, Egmore, Allikulam, is confirmed.

21.08.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
bga

To

The Metropolitan Magistrate,
Fast Track Court No.1, Egmore, Allikulam,



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R. HEMALATHA, J.
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