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Crl.R.C.No.1921 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1921 of 2023 and
Crl.M.P.No.17979 of 2023

G.Brindha

... Petitioner

Vs.

Sengottaiyan

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Criminal Procedure Code, to set aside the order of the learned Principal District and Sessions Judge, Salem in Crl.M.P.No.990/2022 in Crl Appeal SR.No.6094 of 2022 dated 17.06.2022.

For Petitioner : Mr.S.Sridevi
For Respondent : Mr.V.Elangovan

ORDER

This Criminal Revision Case has been filed to set aside the order, dated 19.06.2022 made in Crl.M.P.No.990 of 2022 in Crl.Appeal.SR.No.6094 of 2022 by the learned Principal Sessions Judge, Salem (lower appellate Court).

2.In continuation and conjunction to the earlier order passed by this Court on 08.11.2023, this Court is passing the following order.

3.Today, the learned counsel for the petitioner and the learned counsel



for the respondent present.

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4.The learned counsel for the petitioner produced the receipt for depositing the amount of Rs.1,20,000/- being the 20% of the cheque amount of Rs.6,00,000/-, which is the dispute cheque in C.C.No.370 of 2017 on the file of the Judicial Magistrate Court No.I, Mettur wherein the petitioner was convicted for offence under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo Simple Imprisonment for one year and to pay the cheque amount of Rs.6,00,000/- as compensation within a period of two months failing which the petitioner to undergo Simple Imprisonment for six months. Aggrieved over the same, the petitioner preferred an appeal before the learned Principal Sessions Judge, Salem (lower appellate Court) with a delay of 59 days. The lower appellate Court in Crl.M.P.No.990 of 2022 ordered the petitioner to deposit a sum of Rs.3,00,000/- which is 50% of the cheque amount *vide* order, dated 17.06.2022. The petitioner was unable to deposit the same, thereafter, filed the above revision challenging the impugned order, dated 17.06.2022 passed by the lower appellate Court.

5.The lower appellate Court normally follows Section 148 of the



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Negotiable Instruments Act, 1881 and directs the appellant to file minimum amount i.e., 20% of the cheque amount or compensation awarded by the trial Court. On the other hand, in this case, the lower appellate Court directed the petitioner to deposit 50% of the cheque amount, hence, the petitioner was unable to comply with the condition. In the process of making arrangement to pay 50% of the cheque amount, the delay occurred. Now, 20% of the cheque amount deposited to the credit of C.C.No.370 of 2017, on the file of the trial Court. A scanned reproduction of the same is as follows:



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As per order of the Hon'ble
High Court of Madras in
Crl MP No. 16685 of 2023 &
CRLRC SR No. 52252 of 2023
Crl.Misc.61-A/H.C.B.P., Ch.104/Feb.2004
in re 370/2017 of Jm No.3 mch.
No. 431626

(Form of receipt to be
granted by the Court)

IN THE COURT OF THE JUDICIAL MAGISTRATE NO:1
METTUR.

Received this 10th November 2023
day of 20

from Mrs. G. Brindha (39)

Wife of Alexander
son of the

sum of Rs. 1,20,000/-
being
Rupees ~~one~~ lakh twenty
thousand only)

the whole/part of the

Rs. 1,20,000/-

10/11/23
JUDICIAL MAGISTRATE NO:1
METTUR
Judge.



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6. In view of the 20% of the cheque amount has been deposited, this Court directs the lower appellate Court to condone the delay of 59 days, number the appeal, consider the suspension of sentence petition and thereafter, the main appeal to be listed and disposed of, in accordance with law. The lower appellate Court is reminded the offence under Section 138 of the Negotiable Instruments Act, 1881 is a bailable offence.

7. Finding that the petitioner is a lady, arrested and detained from 22.08.2023 and she has two children to be taken care and they are now without their mother's love and affection from then on, this Court grants interim bail till 07.12.2023. The petitioner shall execute own bond for a sum of Rs.5,000/- (Rupees Five Thousand only) before the Superintendent of Police, Special Prison for Women, Coimbatore.

8. The learned counsel for the respondent/complainant submitted that he has no objection for the petitioner to be enlarged on bail, his only apprehension is that the petitioner delayed the progress of the trial and she might not delay the appeal, hence, the respondent may be permitted to withdraw the 20% of the cheque amount which has been deposited before the trial Court. The learned



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counsel for the petitioner has got no objection for the respondent to withdraw the 20% amount subject to the undertaking affidavit that withdrawal is subject to the outcome of the appeal.

9.In view of the above, the trial Court is directed to handover the 20% amount of Rs.1,20,000/- to the respondent, of course, on getting an undertaking affidavit to that effect from the respondent. No notice is required to be served to the petitioner.

10.In the result, this Court set asides the impugned order, dated 17.06.2022 passed by the lower appellate Court. Accordingly, this Criminal Revision Case is partly-allowed. Consequently, the connected Miscellaneous Petition is closed.

10.11.2023

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

Index : Yes/No

Internet : Yes/No

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To

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- 1.The Principal Sessions Court,
Salem.
- 2.The Judicial Magistrate Court No.I,
Mettur.
- 3.The Superintendent of Police,
Special Prison for Women,
Coimbatore.



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M.NIRMAL KUMAR, J.

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