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Crl.OP.No.30281 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.30281 of 2022

T.S.Shanthi

...Petitioner

Vs.

V.Ramakrishnan

... Respondent

PRAYER : This Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside order dated 30.09.2022 passed in the Crl.M.P.No.7586 of 2022 in C.C.No.110 of 2016 pending on the file of learned Judicial Magistrate, Fast Track Court, Alandur.

For Petitioner	: Mr.K.Pradeep Raj
For Respondent	: Mr.Adithyavaradarajan

ORDER

This Criminal Original Petition has been filed to set aside order dated 30.09.2022 passed in the Crl.M.P.No.7586 of 2022 in C.C.No.110 of 2016



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pending on the file of learned Judicial Magistrate, Fast Track Court, Alandur.

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2.This Court on 08.12.2022, referring to the judgment of Hon'ble Supreme Court in ***G.J.Raja Vs. Tejraj Surana*** in ***Crl.A.No.1160 of 2019*** arising out of ***SLP(Crl.)No.3342 of 2019***, observed that Section 143 A of the Negotiable Instrument Act, 1881 can be applied or invoked only in cases where the offence under Section 138 of the Negotiable Instrument Act, 1881 was committed after the introduction of Section 143 A of the Negotiable Instrument Act, 1881, in the Statute book. Therefore, it was observed that order passed by the learned Fast Track Court, Alandur is illegal and is liable to be set aside. Only to give an opportunity of hearing to the respondent, notice was ordered to the respondent.

3.When the matter is taken up today, Mr.Adithyavaradarajan, learned counsel appeared for the respondent. He conceded to the order passed by this Court on 08.12.2022 and submitted that Section 143 A of the Negotiable Instrument Act, 1881, can be applied and invoked only in cases where offence under Section 138 of the Negotiable Instrument Act, 1881, is committed after



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introduction of Section 143 A of the Act in the Statute book. He further submitted that the order passed by the learned Judicial Magistrate, Fast Track Court, Alandur in Crl.M.P.No.7586 of 2022 may be set aside and the matter may be decided on merits in C.C.No.110 of 2016.

4.Heard the learned counsel for the petitioner and respondent.

5.Hon'ble Supreme Court in ***G.J.Raja Vs. Tejraj Surana*** in ***Crl.A.No.1160 of 2019*** arising out of ***SLP(Crl.)No.3342 of 2019***, observed as follows:-

“24. In the ultimate analysis, we hold [Section 143A](#) to be prospective in operation and that the provisions of said [Section 143A](#) can be applied or invoked only in cases where the offence under [Section 138](#) of the Act was committed after the introduction of said [Section 143A](#) in the statute book. Consequently, the orders passed by the Trial Court as well as the High Court are required to be set aside. The money deposited by the Appellant, pursuant to the interim direction passed by this Court, shall be returned to the Appellant along with interest accrued thereon within two weeks from the date of this order.”

6.It is clear that Section 143 A of the Act can be applied or invoked only in cases where the offence under Section 138 of the Negotiable Instrument Act,



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1881 was committed after the introduction of Section 143 A of the Negotiable Instrument Act, in the statute book. However, in the case before hand, the learned Judicial Magistrate, Fast Track Court, Alandur, invoked Section 143-A of the Negotiable Instrument Act, 1881, for the cheque issued on 02.04.2012. Therefore, invoking Section 143 A of the Negotiable Instrument Act, 1881 and directing the petitioner to pay the 10% of the cheque amount as interim compensation is not appropriate and in accordance with law. Thus, the order dated 30.09.2022 passed by the learned Judicial Magistrate, Fast Track Court, Alandur, in Crl.M.P.No.7586 of 2022 in C.C.No.110 of 2016 is set aside. The learned Judicial Magistrate, Fast Track Court, Alandur, is directed to dispose of the case in C.C.No.110 of 2016 on merits and in the manner known to law, preferably within a period of two months from the date of receipt of copy of this order.

7. With the above direction, this Criminal Original Petition is disposed of.

09.01.2023

Index : Yes / No
Speaking / Non Speaking order
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Note:- Issue order copy on 11.01.2023

G.CHANDRASEKHARAN,J.

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