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Crl.R.C.No.2137 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2023

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.2137 of 2023

Balavelayudam

... Petitioner

Vs.

Krishnamoorthy

... 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 and Sessions Judge, Cuddalore District in C.M.P.No.8430 of 2023 in Crl.A.No.82 of 2023 on 23.11.2023.

For Petitioner : Mr.A.Arasu Ganesan

For Respondent : Mr.K.Balasubramaniam

ORDER

This Criminal Revision Case has been filed to set aside the impugned order, dated 23.11.2023 in Crl.M.P.No.8430 of 2023 in C.A.No.82 of 2023 passed by the learned Principal Sessions Judge, Cuddalore.

2.The petitioner was convicted by the learned Judicial Magistrate No.III, Cuddalore (trial Court) in S.T.C.No.1505 of 2021, dated 18.10.2023



and sentenced to undergo Simple Imprisonment for six months and to pay the cheque amount of Rs.5,00,000/- as compensation to the respondent within two months from the date of the judgment, in default to undergo Simple Imprisonment for one month for offence under Section 138 of the Negotiable Instruments Act, 1881. Aggrieved over the same, an appeal was preferred by the petitioner before the learned Principal Sessions Judge, Cuddalore (lower appellate Court) in C.A.No.82 of 2023 and he also filed a petition for suspension of sentence in Crl.M.P.No.8430 of 2023 in C.A.No.82 of 2023. The lower appellate Court, by impugned order, dated 23.11.2023 in Crl.M.P.No.8430 of 2023 in C.A.No.82 of 2023 imposed certain conditions of which one of the condition is that the petitioner to pay 20% of the cheque amount to the credit of S.T.C.No.1505 of 2021, on the file of the trial Court and the same to be kept in Criminal Court Deposit account in the said case number and also directed the petitioner to appear before the trial Court daily at 10.30 a.m., for fifteen days. Challenging the impugned order, the present Criminal Revision Case is filed.



3.The learned counsel for the petitioner submitted that the petitioner

is a sick person with various health ailments, due to which, it will be difficult for him to comply with the condition that he has to appear before the trial Court for fifteen days. He further submitted that the petitioner is willing to deposit 20% of the cheque amount i.e., Rs.1,00,000/- before the trial Court, within ten days from today.

4.The learned counsel for the respondent submitted that the cheque is of the year 2020 and it is almost four years for the trial Court to get over and now, it is the stage of appeal. Despite the order of the lower appellate Court, so far the petitioner not deposited the 20% of the cheque amount, hence, he would further drag on the appeal. Now, the respondent is very much in need of money. He further submitted that the respondent has got no objection for modification of the condition directing the petitioner to appear before the trial Court. His plea is that 20% of the cheque amount to be deposited before the trial Court and the respondent may be permitted to withdraw the same. In reply, the learned counsel for the petitioner's apprehension is that in the event of petitioner succeeding in appeal, the



respondent would return back the 20% of the cheque amount.

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5.Considering the submissions and on perusal of the materials, it is seen that the petitioner was convicted by the trial Court in S.T.C.No.1505 of 2021 and sentenced to undergo Simple Imprisonment for six months and to pay the cheque amount of Rs.5,00,000/- as compensation to the respondent within two months from the date of the judgment, in default to undergo Simple Imprisonment for one month for offence under Section 138 of the Negotiable Instruments Act, 1881. It is not in dispute that the cheque is of the year 2020 and it is almost four years for the trial to reach its logical end. Now, it is at the stage of appeal before the lower appellate Court.

6.In view of the above submissions, the condition imposed by the lower appellate Court that the petitioner to appear before the trial Court daily at 10.30 a.m., for fifteen days is set aside. As regards deposit of 20% of the cheque amount is concerned, if not deposited, the petitioner is directed to deposit the 20% of the cheque amount i.e., Rs.1,00,000/- to the credit of S.T.C.No.1505 of 2021 on the file of the trial Court within ten days



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from the date of receipt of a copy of this order. The trial Court to permit the respondent to withdraw the 20% of cheque amount and no notice is required to the petitioner in this regard. Of course, the respondent to file an affidavit of undertaking that 20% of cheque amount is subject to the outcome of the criminal appeal in C.A.No.82 of 2023 on the file of the lower appellate Court.

7. With the above directions, this Criminal Revision Case is partly allowed.

18.12.2023

Index: Yes/No  
Speaking Order/Non Speaking Order  
Neutral Citation: Yes/No  
Internet: Yes/No

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To

1. The Principal District and Sessions Court,  
Cuddalore.
2. The Judicial Magistrate Court No.III,  
Cuddalore.



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M.NIRMAL KUMAR, J.

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