



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 07.03.2023

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THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRL.R.C.(MD).No.222 of 2023

and

CrI.M.P.(MD)No.3116 of 2023

Kannan

: Petitioner

Vs.

1.Lakshmidevi

2.Murugesan

: Respondents

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C, to call for the records of the impugned order passed in Cr.M.P.No.286 of 2023 in C.A.No.8 of 2023 on the file of the Court of Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur and set aside the condition No.(i) “the petitioner shall deposit a sum of Rs. 1,03,877/- (Rupees one lakh three thousand eight hundred and Seventy Seven only) before the trial Court within one month alone.

For Petitioner : Mr.R.Murugappan

ORDER

The Criminal Revision Case is directed against the order passed in Cr.M.P.No.286 of 2023 in C.A.No.8 of 2023, dated 12.01.2023, on the file of



the Court of Principal District and Sessions Judge, Virudhunagar District at
Srivilliputhur.

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2. It is evident from the records that the learned Judicial Magistrate No.II, Sattur, after conducting trial in C.C.No.26 of 2021, has passed the judgment convicting the accused for the offence under Section 138 of Negotiable Instruments Act, sentenced him to undergo simple imprisonment for a period of six months and to pay the cheque amount of Rs.5,19,383 to the complainant under Section 357(3) Cr.P.C, in default, to undergo one month simple imprisonment. Challenging the judgment of conviction, the petitioner/accused has preferred the appeal in C.A.No. 8 of 2023 before the Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur and for suspension of sentence in Cr.M.P.No.286 of 2023 and the learned Principal District Judge, while suspending the sentence has imposed a condition directing the petitioner to deposit a sum of Rs.1,03,877/- before the trial Court within a period of one month and to execute a personal bond for Rs.25,000/- with two sureties for the like sum to the satisfaction of the learned Judicial Magistrate No.II, Sattur. Further directed the petitioner to appear before appellate Court for further hearings.



3. The main contention of the petitioner is that since the petitioner is a coolie worker, he is not in a position to deposit the amount ordered by the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur.

4. Section 148 of Negotiable Instruments Act deals with the power of the Appellate Court to order payment pending appeal against conviction.

Section 148 of Negotiable Instruments Act reads as follows :

“148. Power of Appellate Court to order payment pending appeal against conviction : (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, in an appeal by the drawer against conviction under Section 138, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty per cent of the fine or compensation awarded by the trial Court.”

5. Considering the above, amended Section 148 of Negotiable Instruments Act confers power upon the Appellate Court to pass an order pending appeal to direct the appellants to deposit the sum which shall not be less than 20% of the fine or compensation either on an application filed by the original complainant or even on the application filed by the appellant under section 389 of Cr.P.C., to suspend the sentence.



6. A perusal of the above provision, makes it clear that there is no scope for exercise of discretion in Section 148 of Negotiable Instruments Act, which empowers the Appellate Court to direct the accused/appellant to 'deposit' minimum of 20% of 'fine' or 'compensation' awarded by the Trial Court and as such requirement to deposit has become mandatory.

7. Considering the above, the directions of the learned Principal District and Sessions Judge to the petitioner to deposit a sum of Rs.1,03,877/- being 20% of the cheque amount of Rs.5,19,383/- , is perfectly in order and the same cannot be found fault with. Hence, this Court concludes that the revision is devoid of merits and the same is liable to be dismissed. Accordingly, the revision is dismissed. Consequently, connected Miscellaneous Petition is closed.

07.03.2023

NCC : Yes /No

Index : Yes/No

Internet : Yes/No

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To

- 1.The Principal District and Sessions Judge,
Virudhunagar District at Srivilliputhur.
- 2.The Judicial Magistrate No.II, Sattur.
- 3.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

das

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and
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07.03.2023