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Crl.R.C(MD)No.1083 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 30.10.2023

Pronounced on : 20.12.2023

CORAM:

**THE HONOURABLE MR.JUSTICE P.VADAMALAI**

Crl.R.C(MD)No.1083 of 2023

and

Crl.M.P(MD)No.13903 of 2023

S.Hariharan

... Petitioner / Accused

Vs.

R.Rajagopal

... Respondent /Complainant

PRAYER : This Criminal Revision has been filed under Sections 397 and 401 of Criminal Procedure Code, to call for the records in Crl.M.P.No. 12897 of 2022 in C.C.No.195 of 2022, dated 27.01.2023 before the Judicial Magistrate No.1, Tiruchirapalli and set side the same and permit the petitioner/accused to commence trial.

For Petitioner : Mr.S.Aswin Karthikeyan

For Respondent : Mr.M.Karunanithi

ORDER

This Criminal Revision Case is filed against the order dated 27.01.2023 passed in Crl.M.P.No.12897 of 2022 in C.C.No.195 of 2022



on the file of the learned Judicial Magistrate No.1, Tiruchirappalli and to set aside the same and to permit the petitioner/accused to commence the trial.

**2.The brief facts of the case:**

The revision petitioner is the respondent/accused in C.C.No.195 of 2022 on the file of the Judicial Magistrate No.1 Court, Tiruchirappalli. The revision respondent is the complainant in C.C.No.195 of 2022, who filed the main case against the accused under Section 138 of the Negotiable Instruments Act for dishonor of cheque for the value of Rs. 80,00,000/-. During pendency of trial, the revision respondent filed the petition in Crl.M.P.No.12897 of 2022 under Section 143(A) of the Negotiable Instruments Act, to direct the revision petitioner to deposit 20% of the cheque amount. The petition was resisted by the revision petitioner. After hearing both the petition was allowed by the Trial Court on 27.01.2023. Being aggrieved by the order, the petitioner preferred this Criminal Revision Case.

3. Heard both and perused the records in this Criminal Revision Case.



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4. The learned counsel appearing for the revision petitioner has submitted that the revision petitioner was running M/s Care IT Solutions (P) Limited from 2003. The said company invested in Solar Power Projects and Smart City projects. The respondent/complainant invested Rs.80,00,000/- into the said project. Suppressing the facts, the respondent/complainant filed the main case as if the revision petitioner borrowed the said amount. Without considering the facts and contentions, the Trial Court passed the impugned order. Hence, the impugned order may be set aside.

5. The learned counsel for the respondent/complainant submitted that the petitioner filed the petition under Section 138 of the Negotiable Instruments Act. If so, under Section 143(A) of the Negotiable Instruments Act, only on deposit of 20% of the cheque amount, the petitioner/accused can conduct trial. The Trial Court has properly appreciated the contentions of both side and consider the facts and circumstances of the case and passed the impugned order. Therefore, he opposed this petition.

6. On hearing both, it is clear that the revision respondent/complainant filed the main case under Section 138 of the



Negotiable Instruments Act against the revision petitioner/accused. It is the main contention of the revision petitioner that he was running IT Solution Company and invested the amount in Solar Power Projects and Smart City Projects and the revision respondent/complainant voluntarily invested Rs.80 lakhs in the year 2016 by way of account transfer to the said company. It is his further contention that the company was successfully running till January, 2017 and thereafter faced huge loss and hence the bank moved National Company Law Tribunal. The respondent/complainant contended that the revision petitioner borrowed the amount and issued a cheque and when the cheque was presented it was dishonoured and so the case was filed. The revision petitioner submit that he has a fair chance of success.

7. Considering the facts and circumstances, all the above rival contentions can be decided only after full fledged trial by letting in oral and documentary evidences. During the course of argument both side agreed for a direction to the trial court to dispose of the main case within stipulated time. In view of both side agreed arguments and other facts and circumstances, this court allows the petition and the impugned order of the trial court is to be set aside.



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8. In the result, this Criminal Revision Case is allowed and the impugned order dated 27.01.2023 passed in Crl.M.P.No.12897 of 2022 in C.C.No.195 of 2022 on the file of the learned Judicial Magistrate No.1, Tiruchirappalli is set aside.

9. The trial Court is directed to dispose of the main case within a period of three months from the date of receipt of a copy of this order by giving all opportunities to both parties according to law. Consequently connected Miscellaneous Petition is closed.

20.12.2023

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
VSD

To

- 1.The Judicial Magistrate No.1,  
Tiruchirapalli.
- 2.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**P.VADAMALAI, J.**

VSD

Pre - Delivery Order made in  
Crl.R.C(MD)No.1083 of 2023  
and  
Crl.M.P(MD)No.13903 of 2023

20.12.2023