



Crl.R.C.(MD).No.1073 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	:	30.08.2023
Pronounced on	:	02.11.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC(MD)No.1073 of 2022
and
Crl.M.P.(MD).No.13666 of 2022

V.Rajapandi

... Petitioner/Petitioner/Appellant

Vs.

Mohamed Ismail

... Respondent/Respondent/Complainant

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records pertaining to the condition No.1 imposed by the Learned Principal Session Judge, Dindigul in Crl.M.P.No.3408 of 2022 in C.A.No.54 of 2022 dated 30.09.2022 and set aside the same by allowing the above criminal revision.

For Petitioner :Mr.A.P.Muthupandian

For Respondent :Mr.V.R.Venkatesan



Crl.R.C.(MD).No.1073 of 2022

ORDER

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This Criminal Revision Case has been filed as against the order impugned in Crl.M.P.No.3408 of 2022 in C.A.No.54 of 2022, dated 30.09.2022, by the learned Principal Sessions Judge, Dindigul.

2. The petitioner is the accused in C.C.No.17 of 2020. The respondent filed a complaint for the offence punishable under Section 138 of Negotiable Instrument Act, against the petitioner for the dishonour of cheque for a sum of Rs.3,00,000/-, wherein the learned trial Judge, convicted the petitioner to undergo simple imprisonment for a period of eight months with direction to pay a sum of Rs.3,00,000/- as a compensation within a period of two months in default to undergo further period of two months simple imprisonment. Aggrieved over the same, the petitioner preferred an appeal before the learned Principal Sessions Judge, Dindigul District, in Crl.A.No.54 of 2022, along with the suspension of sentence petition.

3. The learned trial Judge after perusing the material, granted suspension of sentence with condition to deposit 20% of the cheque amount before the learned District Munsif cum Judicial Magistrate, Athoor on or before



Crl.R.C.(MD).No.1073 of 2022

02.11.2022. Challenging the same, the petitioner preferred this criminal revision case before this court.

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4. The learned counsel for the petitioner submitted that the condition imposed by the learned trial Judge, is onerous and has failed to note that the case was registered against the petitioner for the offence under Section 5 of TNPID Act, and the same was pending before the concerned Court. The learned trial Judge also attached the property of the petitioner and the Company. Thereafter, an agreement was entered into between the parties to resolve the same, through the mediation and the same was not considered by the trial Judge. Hence, he seeks to set aside the condition imposed by the learned trial Judge.

5. The learned counsel for the respondent would submit that the petitioner collected a huge amount from various parties and cheated the respondent like persons. In view of the repayment of the collected amount, he issued a cheque. Hence, he is liable to pay the amount. The learned counsel for the respondent further submitted that as per Section 148(A) of the Negotiable Instruments Act, he is duty bound to pay the amount. Hence, there was no interference in the order passed by the learned trial Judge.



Crl.R.C.(MD).No.1073 of 2022

WEB COPY

6. This Court considered the rival submissions and perused the materials available on record.

7. Admittedly, the petitioner is convicted for the offence punishable under Section 138 of the Negotiable Instrument Act. The trial Court after considering the evidence before the Court below, found that the petitioner issued a cheque to discharge the debt of a sum of Rs.3,00,000/-. In the said circumstances, as per the Section 143(A) of the Negotiable Instrument Act, he is statutorily bound to deposit the amount. There was no *bona fide* reason adduced on the side of the petitioner/appellant to set aside the said condition. The petitioner did not plead any of the extraordinary circumstances to deposit the 20% of the cheque amount. In the said circumstances, this Court does not find any merit in the submission of the learned counsel for the petitioner.

8. Accordingly, this Criminal Revision Case is dismissed with a direction to the petitioner to deposit 20% of the cheque amount within a period of 15 days from the date of receipt of copy of this order and otherwise, the learned trial Judge is directed to secure the accused, in view of the sentence passed by the



Crl.R.C.(MD).No.1073 of 2022

WEB COPY

learned trial Judge. If the petitioner deposits the 20% of the cheque amount, the learned appellate Judge is directed to dispose of the appeal within a period of two months from the date of deposit of the amount. Consequently, connected miscellaneous petition is closed.

02.11.2023

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

sbm

To

- 1.The Principal Session Judge,
Dindigul.
- 2.The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court, Madurai.



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Crl.R.C.(MD).No.1073 of 2022

K.K.RAMAKRISHNAN, J.

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Crl.RC(MD)No.1073 of 2022
and
Crl.M.P.(MD).No.13666 of 2022

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