



Crl.R.C(MD)No.1117 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.10.2023

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1117 of 2023

Raja

... Petitioner

Vs.

M.Balamurugan

... Respondent

Prayer : This Criminal Revision Case has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for records from the Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur in M.P.No.1 of 2023 in C.A.No.128 of 2023 dated 27.09.2023 and set aside the first condition and modify to effect that the petitioner shall deposit 20% of the cheque amount instead of the petitioner shall deposit half of the cheque amount of Rs.1,15,500/- before the Trial Court within 15 days.

For Petitioner : Mr.S.Ramasamy

ORDER

This Criminal Revision Case has been filed to call for records from the learned Principal District and Sessions Judge, Virudhunagar



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District at Srivilliputtur in M.P.No.1 of 2023 in C.A.No.128 of 2023 dated 27.09.2023 and set aside the first condition and modify to effect that the petitioner shall deposit 20% of the cheque amount instead of the petitioner shall deposit half of the cheque amount of Rs.1,15,500/- before the Trial Court within 15 days.

2. The learned counsel for the revision petitioner submitted that the respondent filed a private compliant stating that the petitioner borrowed a sum of Rs.2,31,000/- from the respondent, in discharging the above said liability, on demand, the petitioner issued a cheque bearing No.647 868. The respondent presented the cheque before the bank and the same returned stating that " Funds Insufficient ". Thereafter, the respondent filed a private complaint before the Judicial Magistrate Fast Track Court, Srivilliputtur, against the petitioner for the offence under Section 138 NI Act and the same was cognizance in S.T.C.No.632 of 2022.

3. After full trial, on 25.08.2023, the trial Court convicted the petitioner and sentenced him to undergo one year simple imprisonment and imposed a fine of Rs.5,000/- (Rupees Five Thousand only) in default



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to undergo two months simple imprisonment for the offence under Section 138 NI Act. Challenging the same, the petitioner has preferred an appeal before the learned Principal District and Sessions Judge, Virudhunagar District in C.A.No.128 of 2023 along with petition for suspending the sentence in M.P.No.1 of 2023. After hearing the M.P.No. 1 of 2023, the learned judge allowed the petition on 27.09.2023, with certain conditions. One of the condition is that "***the petitioner shall deposit half of the cheque amount of Rs.1,15,500/- (Rupees One Lakh Fifteen Thousand and Five Hundred only) before the trial Court within a period of 15 days***"

4.The grievance of the learned counsel for the petitioner is that the petitioner could not deposit the half of the cheque amount, since that condition is violate Section 148 of the Negotiable Instrument Act. He further submitted that he has not in a position to arrange the above said amount within a time fixed by the learned Judge. Therefore, he prays for modification of the above said condition.

5. Considering the above facts and circumstances of the case, the order of the learned Principal District and Sessions Judge,



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Virudhunagar District at Srivilliputtur, made in M.P.No.1 of 2023 in

C.A.No.128 of 2023 dated 27.09.2023 is modified in respect of the condition No.(i) alone and it is modified to the effect that the petitioner is directed to deposit 20% of the cheque amount (i.e) Rs.46,200/- (Rupees Forty Six Thousand and Two Hundred only) before the trial Court within a period of 15 days from the date of receipt of a copy of this order. The other conditions shall remain unaltered.

6. In the result, the Criminal Revision Case is allowed.

10.10.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To
The Principal District and Sessions Judge,
Virudhunagar District,
Srivilliputtur.



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P.VADAMALAI, J.

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