



Crl.R.C.(MD).No.1286 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 22.11.2023

CORAM

THE HONOURABLE MR. JUSTICE P.VADAMALAI

Crl.R.C.(MD).No.1286 of 2023

M/s.MSN Traders,
Through its Proprietor Mrs.A.Vijalakshmi,
W/o.Ashok
No.1/537-F Exhibition Road,
West Hill,
Kozhikode-673 005.
Kerala State.

... Petitioner

Vs.

M/s.Genga Industries,
Through its Partner,
Mr.G.Rajah Vikram,
No.3, Bye Pass Road North,
Virudhunagar.

... Respondent

PRAYER: This Civil Revision Case is filed under Sections 397 r/w 401 of the Criminal Procedure Code, to set aside the condition No.I in directing the petitioner to deposit a sum of Rs.10,87,424/- before the learned Judicial Magistrate No.I, Virudhunagar within one month, vide order dated 02.11.2023 passed in Cr.M.P.No.5679 of 2023 in Crl.A.No.143 of 2023 on the file of the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur.



Crl.R.C.(MD).No.1286 of 2023

For Petitioner : Mr.R.Ilayaraja

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ORDER

This Criminal Revision Case has been filed to set aside the condition No.I in directing the petitioner to deposit a sum of Rs.10,87,424/- before the learned Judicial Magistrate No.I, Virudhunagar within one month, vide order dated 02.11.2023 passed in Cr.M.P.No.5679 of 2023 in Crl.A.No.143 of 2023 on the file of the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur.

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.21,74,842/- from the respondent, in discharging the above said liability, on demand, the petitioner issued a cheque bearing No.688184. The respondent presented the cheque before the bank and the same was returned stating that " Funds Insufficient ". Thereafter, the respondent filed a private complaint before the Judicial Magistrate No.I, Virudhunagar, for the offence under Section 138 NI Act in C.C.No.388 of 2019.



Crl.R.C.(MD).No.1286 of 2023

3. After full trial, on 24.08.2023, the trial Court convicted the petitioner and sentenced him to undergo one year simple imprisonment and to pay the cheque amount of Rs.21,74,842- to the respondent as compensation in default to undergo six 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 at Srivilliputhur in Crl.A.No.143 of 2023 along with a petition for suspending the sentence in Cr.M.P.No.5679 of 2023. After hearing the Cr.M.P.No.5679 of 2023, the learned judge allowed the petition on 02.11.2023, with certain conditions. One of the condition is that "***the petitioner shall deposit a sum of Rs.10,87,421/- (Rupees Ten Lakhs Eighty Seven Thousand Four Hundred and Twenty one only) before the trial Court within one month failing which the sentence so suspended is cancelled automatically***"

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



Crl.R.C.(MD).No.1286 of 2023

5. Considering the above facts and circumstances of the case, the order of the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur, made in Cr.M.P.No.5679 of 2023 in Crl.A.No.143 of 2023 dated 02.11.2023 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.4,34,968/- (Rupees Four Lakhs thirty Four Thousand Nine Hundred and sixty Eight only) before the trial Court within a period of one month 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, accordingly.

23.11.2023

Index : Yes / No
Internet : Yes / No
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To

1. The Judicial Magistrate No.I, Virudhungar.
2. The learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur.



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Crl.R.C.(MD).No.1286 of 2023

P.VADAMALAI, J

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Crl.R.C.(MD).No.1286 of 2023

23.11.2023