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CrI.R.C.No.61 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2024

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.R.C.No.61 of 2024 and
CrI.M.P.No.420 of 2024

Vinothkumar

... Petitioner

Vs.

R.Ravi

... Respondent

Prayer: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to call for the records in CMP No.4430 of 2023 in CC No.328 of 2017 on the file of the Judicial Magistrate, Arni, set aside the order dated 29-11-2023 in for as imposing the condition of payment of 15% of the cheque amount as interim compensation to the respondent.

For Petitioner : Mr.M.Devaraj
For Respondent : Mr.M.R.Thangavel

ORDER

The petitioner/accused in C.C.No.328 of 2017 filed a petition under Section 315 of Cr.P.C., in Cr.M.P.No.4430 of 2023 in C.C.No.328 of 2017 before the learned Judicial Magistrate, Arni (trial Court). The trial Court *vide* order, dated 29.11.2023 allowed the petition on condition the petitioner to pay 15% of cheque amount as interim compensation under Section 143(A) of the Negotiable Instruments Act, 1881, to the



respondent/complainant on the next hearing date, failing which, the order will be cancelled automatically. Challenging the same, the present Criminal Revision Case is filed.

2.The learned counsel for the petitioner submitted that the reason given by the trial Court that the petitioner had been dragging on the proceedings and hence, invoking Section 143(3) of the Negotiable Instruments Act, 1881 is not proper. Earlier, the petitioner filed a petition under Section 311 Cr.P.C., to examine the bank officials which got delayed for some other reason. Citing the same and denying the petitioner's right of examining himself as defence witness under Section 315 Cr.P.C., is not proper, more so when the statutory presumption is starred against the petitioner and he has to probablize his defence. Now, the case is at the penultimate stage, at this stage, directing the petitioner to pay 15% of the cheque amount is only to presupposing the case against the petitioner. In view of the same, he filed this revision. The learned counsel for the petitioner, on instructions, submitted that the petitioner's intention is not to delay or drag on the proceedings and his only endeavour is to probablize his



defence by getting into the box by filing petition under Section 315 Cr.P.C., and examine himself as defence witness. He further submitted that if the case before the trial Court is posted on on 12.12.2024 without any delay, the petitioner shall get into the box and examine himself as defence witness.

3.The learned counsel for the respondent submitted that there will not be delay on his part and he would cross examine the witness without any further delay. He further submitted that though the petitioner makes such representation, his only intention is to delay the trial. The petitioner is running super market, he had enlisted the poor agriculturist as interested persons and targeted them to make supply of goods as well as making investment in the business and thereby collected around Rs.1 Crore and thereafter, cheated not only the respondent and also other agriculturists. He further submitted that similarly affected persons have filed civil suits in O.S.No.152 of 2023, on the file of the Additional District Court, Arni and O.S.Nos.119 to 121 of 2023 on the file of the Subordinate Court, Arni. He further submitted that the petitioner is buying time by citing one reason or other. A criminal case in Crime No.18 of 2022 registered by the Arni Police



for offence under Sections 406, 418 and 420 of IPC. The petitioner had approached this Court seeking anticipatory bail in Crl.O.P.No.1756 of 2023 and this Court granted anticipatory bail on 01.03.2023 in which one of the condition is that the petitioner to deposit a sum of Rs.2,00,000/- to the credit of the Crime No.18 of 2023. So far the petitioner has not deposited the said amount and executed the sureties, despite this Court passing the conditional order that the petitioner to deposit such amount within a period of two weeks.

4.The learned counsel for the respondent further submitted that the petitioner adopted dilatory tactics and considering all these aspects thereafter only the trial Court had invoked Section 143(A) of the Act and passed the conditional order. The learned counsel for the respondent undertakes to cross examine the witness without any delay.

5.Considering the submissions and on perusal of the materials, the petitioner is directed to appear before the trial Court on 12.02.2024 and examine himself as defence witness. The respondent to cross examine the



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petitioner on the same day without delay and thereafter, the case can be posted on 15.02.2024 for arguments and render a judgment within ten days thereafter and to dispose the case. The ten days time is only an outer limit.

6.In the result, the impugned order, dated 29.11.2023 in Cr.M.P.No.4430 of 2023 in C.C.No.328 of 2017 passed by the trial Court is set aside in respect of directing the petitioner to deposit 15% of the cheque amount alone. Accordingly, this Criminal Revision Case stands Partly-Allowed. Consequently, the connected Criminal Miscellaneous Petition is closed.

08.02.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

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Note: Issue order copy on 09.02.2024

To

The Judicial Magistrate,
Arni.



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M.NIRMAL KUMAR., J.

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