



Crl.R.C.(MD)No.691 of 2024
and Crl.M.P.(MD)No.7104 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 22.07.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C.(MD)No.691 of 2024

and

Crl.M.P.(MD)No.7104 of 2024

Prakash

... Petitioner/Accused/Accused

Vs.

Senthilappan

... Respondent/Respondent/Complainant

PRAYER: Criminal Revision Petition has been filed under Section 438 r/w 442 of Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records pertaining to the order dated 21.06.2024 made in Crl.M.P.No.316 of 2024 in C.C.No.33 of 2023 passed by the learned Judicial Magistrate, Arupukkottai set aside the same.

For Petitioner : Mr.J.Mohamed Ibrahim

For Respondent : Mr.A.S.Vaigunth

* * * * *

ORDER

This criminal revision case has been filed set aside the order dated 21.06.2024 made in Crl.M.P.No.316 of 2024 in C.C.No.33 of 2023 passed by the learned Judicial Magistrate, Arupukkottai.



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2.The petitioner is the accused in C.C.No.33 of 2023 on the file of the Judicial Magistrate, Arupukkottai. The respondent has initiated the proceedings against the petitioner under Section 138 of Negotiable Instrument Act for the alleged dishonoured of the cheque issued by him bearing Nos.085681, 085682, 085683 and 085684 for the value of Rs.30,00,000/-(Rupees Thirty Lakhs only).

3.The case was posted for cross examination P.W.1 on 09.12.2023 onwards. Thereafter, he has not cross examined the witnesses. Further, he was absent on 17.05.2024. Hence, the learned trial Judge has issued a bailable warrant. Thereafter, the petitioner filed a petition to recall the said bailable warrant and the same was allowed on payment of cost of Rs.7,500/- (Rupees Seven Thousand and Five Hundred only) to the complainant on or before 21.06.2024. Challenging the same, the petitioner has filed this revision before this Court.

4.The learned Counsel for the petitioner submits that he is absent only on 17.05.2024 and hence imposed with cost of Rs.7,500/- is onerous and hence he submits that he has no jurisdiction to impose the cost. He also submits that even he has jurisdiction to impose the cost of Rs.7,500/- is onerous. In the said circumstances, he seeks to set aside the impugned order.



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5.The learned Counsel for the respondent submits that he is available for the cross examination from 09.12.2023 onwards and he seeks adjournment continuously and finally absent on 17.05.2024.

6.Considering the facts, the learned trial Judge issued a bailable warrant and considering the stage of the case and proceedings of the case, the learned trial Judge imposed cost of Rs.7,500/-. According to the counsel, the same is in accordance with law. Hence he seeks dismissal of the revision.

7. This Court considered the rival submission and also perused all the records.

8.The cross examination of P.W.1 was posted on 09.12.2023 onwards. There was no co-operation from the accused to cross examine P.W.1. Further, on 17.05.2024, he was also absent. In the said circumstances, the learned trial Judge issued a bailable warrant. The said issuance of bailable warrant is in accordance with law. Thereafter, he filed a petition to recall the warrant.

9.The complainant is regularly appeared from 09.12.2023 to subject himself for cross examination. Therefore, the learned trial Judge considering



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the hardship faced by the complainant from 09.12.2023, has imposed cost of Rs.7,500/-.

10.In view of the above, this Court finds no merit in this petition. Therefore, the order passed by the learned Judicial Magistrate, Arupukkottai in Cr.M.P.No.316 of 2024, dated 07.06.2024, is hereby confirmed.

11.Accordingly, this criminal revision case is dismissed. Consequently, the connected criminal miscellaneous petition is closed.

22.07.2024

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

To

The learned Judicial Magistrate, Arupukkottai.



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K.K.RAMAKRISHNAN, J.

RJR

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