



Crl.R.C.(MD)No.1140 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 07.03.2024

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

Crl.R.C.(MD)No.1140 of 2023

Titus Samuel

.. Petitioner

Vs.

Joseph Selvaraj

... Respondent

PRAYER : Criminal Revision Case is filed under Sections 397 r/w 401 of the Criminal Procedure Code, to call for the records to set aside the order made in one of the 8th condition (i.e., 8(ii) in Cr.M.P.No.1731 of 2022 dated 31.08.2023 on the file of the Principal Sessions Court, Thoothukudi, Thoothukudi District, and allow this Criminal Revision Petition.

For Petitioner : Mr.S.Muthumalairaja

For Respondent : Mr.S.Ramesh

ORDER

This Criminal Revision has been filed by the revision petitioner to set aside the condition No.8(ii) imposed on him in Cr.M.P.No.1731 of 2022 dated 31.08.2023 by the learned Principal Sessions Judge, Thoothukudi, Thoothukudi District.



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2. The learned counsel for the revision petitioner submitted that the petitioner borrowed a sum of Rs.72,48,000/- for urgent needs from the complainant and for the same, he executed a promissory note. He further submitted that three different cheques were also issued to the complainant for the said debt. The said cheques were returned as “insufficient funds”. Therefore, a complaint was filed against the petitioner under Section 138 of Negotiable Instrument Act before the Fast Track Court (Magisterial level), Thoothukudi, which was taken on file in C.C.No.102 of 2018. The trial Court, by judgment dated 28.02.2022 convicted the petitioner and sentenced him to undergo one year simple imprisonment and to pay the cheque amount as compensation, in default, to undergo three months simple imprisonment. Aggrieved by the same, the petitioner filed C.A.No.40 of 2022 before the Principal Sessions Court, Thoothukudi. The petitioner also filed an application for suspension of sentence in Crl.M.P.No.1731 of 2022. The Court below while suspending the sentence, imposed certain conditions. One such condition that was imposed by the Court below is to the effect that the petitioner must



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deposit 20% of the total cheque amount i.e., Rs.14,49,600/-. The condition of the said deposit is put under challenge in the present revision petition.

3. In support of his contention, he drew attention of this Court to the following decisions: (i) 2001(2) JIC 685 (SC) – M/s.Bhaskar Industries Ltd., Vs. M/s.Bhiwani Denim; (ii) 2000 – 6 SCC 195 – K.K.Patel Vs. state of Gujarat; and (iii) 1999 (3) SCC 134 – Rajendra Kumar Sitaram pande Vs. Uttam.

4. The learned counsel for the respondent submitted that the present Criminal Revision is against an interlocutory order, which is not maintainable under Section 397(2) of Cr.P.C. The provision stipulates that if the order under challenge culminates the criminal proceedings as a whole or finally, decides the rights and liabilities of the parties then the order passed is not interlocutory inspite of the fact that it was passed during any interlocutory stage.



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5. This Court finds substance in the submissions made by the learned counsel for the respondent. Hence, as per the provisions stated above, the present Criminal Revision before this Court is not maintainable.

6. In the result, the Criminal Revision Petition is dismissed.

07.03.2024

Index : Yes / No

Internet : Yes / No

NCC : Yes / No

RM



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- Copy to
- 1.The Principal Sessions Court,
Thoothukudi,
Thoothukudi District,
 - 2.The Judicial Magistrate
Fast Track Court (Magisterial level), Thoothukudi,



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VIVEK KUMAR SINGH, J.

RM

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