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Crl.R.C.No.2302 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 30.01.2025

PRONOUNCED ON : 07.02.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2302 of 2024

G.Sivan

... Petitioner/petitioner

Vs.

1. State Rep. by
The Inspector of Police,
District Crime Branch,
Thiruvallur.

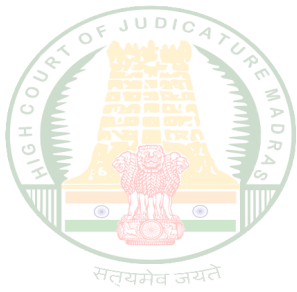
2. The District Revenue Officer,
Thiruvallur District,
Thiruvallur. ... Respondents 1 & 2 /Complainant

3. Bhuvaneshwari ... 3rd Respondent/Accused

Prayer: Criminal Revision Petition filed under Sections 397 and 401 of Code of Criminal Procedure, praying to set aside the order dated 08.11.2024 made in Crl.M.P.No.2593 of 2023 in C.C.No.63 of 2022 on the file of the learned Special Judge, under the Tamil Nadu Protection of Interest of Depositors and Financial Establishment Act, 1997, Chennai.

For Petitioner : Mrs.Selvi George

For Respondents : Mr.S.Udaya Kumar (for R1 & R2)
Government Advocate (Crl. Side)
Mr.Samir Kumar S. Shah
for M/s. Shah & Shah



CrI.R.C.No.2302 of 2024

WEB COPY

ORDER

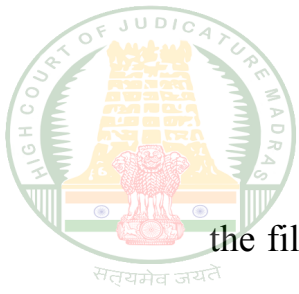
The petitioner has preferred the above Criminal Revision Case aggrieved by a condition imposed by the learned Special Judge, TNPID Court, while directing the respondent police to hand over the petitioner's premises to her.

2. The above revision arises under the following circumstances.

(a) The petitioner is the owner of the property bearing Door No.766 in Survey No.166/1, Red Hills Road, Ammanampakkam Junction, Thamarapakkam, consisting of shop at Ground Floor (1200 sq.ft.) and First Floor (480 sq.ft.).

(b) One Bhuvaneswari, stating that she would run a Hotel, Bakery or a Tea-shop, requested the petitioner to let out the premises on rent. A rental agreement was entered into on 22.07.2021 between the petitioner and the said Bhuvaneswari. The said rental agreement expired on 21.06.2022. Though, the agreement expired, the tenant continued the tenancy and paid rent for sometime thereafter.

(d) A case in Cr.No.63 of 2022 for the offence under Section 120(B) and 420 IPC and Section 5 of the TNPID Act, was registered on



Crl.R.C.No.2302 of 2024

the file of the respondent police, against eight accused including the said Bhuvaneswari.

(e) During the course of the investigation, the respondent police locked the premises and seized the articles in the said premises on 26.05.2023.

(f) Since the tenant did not pay rent thereafter, the landlord sought for handing over the premises before the TNPID Court.

(g) The respondents 1 & 2 objected to the handing over of the premises, mainly on the ground that the tenant by receiving funds from the public had nearly spent Rs.35 Lakhs for interior decoration in the said building and hence, the petitioner ought to be directed to deposit the said sum before taking over possession.

(h) The said tenant viz., Bhuvaneshwari/3rd respondent herein was impleaded as 3rd respondent before the TNPID Court, pursuant to the orders made in Crl.M.P.No.2639 of 2023 dated 06.07.2023.

(i) The TNPID Court found that since the main objection of the respondents 1 & 2, is that the public money was utilised by the tenant for interior decoration to the tune of Rs.35 lakhs, the petitioner should file an affidavit, undertaking that she would pay the value of the interior decoration that is to be assessed by the competent authority and if no such



Crl.R.C.No.2302 of 2024

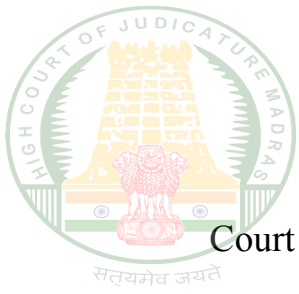
affidavit is filed, the petition would stand dismissed.

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3. (i) The learned counsel for the petitioner would submit that the petitioner has not received rents for several months and in any case, atleast from the date of locking of the premises; that the petitioner had also paid the Electricity Board charges to avoid disconnection to the tune of Rs.1,31,884/-; that the petitioner cannot be made to suffer for the alleged defaults committed by the tenant; that the condition to make the payment equivalent to the value of the interior decoration, is onerous; and therefore, prayed for setting aside the said condition.

(ii). The learned counsel also relied upon the order passed by this Court in Crl.R.C.No.238 of 2023 dated 09.02.2023, wherein this Court under similar circumstances had set aside the condition to make a deposit for the return of the landlord's premises.

4.(i) The learned counsel for the 3rd respondent/accused *per contra* submitted that the tenant cannot be vacated indirectly by this method and submitted that if the petitioner requires possession, he has to approach the competent forum and relied upon the judgment of the Hon'ble Supreme



Crl.R.C.No.2302 of 2024

Court in *Dalichand and another v. C.Santosh Agarwal and others* [CA

No.1206 of 1999 dated 16.11.1999].

(ii) The 3rd respondent also filed a counter affidavit to show that though the written agreement was not renewed from 26.06.2022, the tenancy was orally renewed; that the 3rd respondent was unable to pay the rent and the Electricity Board charges, since the property was seized and she was not occupying the premises; and that the complaint against the 3rd respondent is false and since the 3rd respondent has not handed over the premises to the landlord, the premises cannot be handed over to the landlord indirectly by this method. It is further stated in the counter affidavit that the 3rd respondent had not used public money for renovating the property.

5. Considered the submissions made by the learned counsel on either side and perused the materials available on record.

6. The fact that the petitioner is the landlord is not in dispute. The 3rd respondent herself has admitted in her counter affidavit that she had not paid rent and the electricity board charges from the date of seizure,

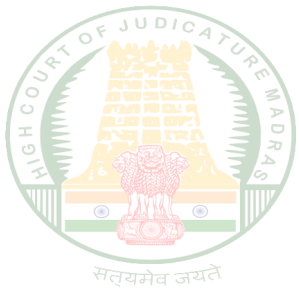


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since she did not occupy the premises. The 3rd respondent had not filed any application before the TNPID Court seeking to unlock the premises and hand over possession to her. The impugned order had directed the respondents 1 & 2, to hand over the premises to the petitioner. Therefore, the issue in this revision is not whether the premises can be handed over to the petitioner.

7. The TNPID Court had directed the handing over of premises to the petitioner and rightly so, for the aforesaid reasons and as the petitioner/landlord cannot be made to suffer on account of the locking of the premises for no fault of his. Hence, this Court finds no infirmity in the order of the learned Judge, TNPID Court in directing the handing over of the premises to the petitioner.

8. However, the real question before this Court is whether the trial Court was right in directing the petitioner to file an affidavit, undertaking to pay the value of the interior decoration, to be fixed by the competent authority, said to have been done by the 3rd respondent, in petitioner's premises.

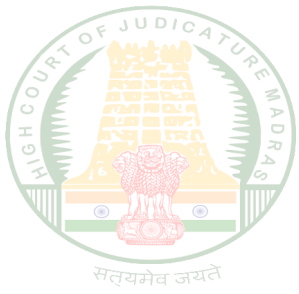


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9. The petitioner who has suffered loss of rent atleast from May 2023 cannot be put to further suffering by imposing an onerous condition for handing over the premises to him. In fact, during the course of arguments, the learned counsel for the petitioner submitted that it is open to the 3rd respondent to remove any such furniture / materials which were supposedly used by the 3rd respondent for the purpose of interior decoration. Hence, this Court is of the view that if the 3rd respondent/tenant had spent money in the petitioner's premises, out of the deposits collected, the petitioner cannot be penalised.

10. In similar circumstances, when a condition to deposit Rs.3 Lakhs was imposed by the TNPID Court, this Court had held that the said condition is unwarranted. The relevant portion reads as follows:

6. It is not disputed that the petitioner is the owner of the property only, and not connected with the running of the alleged chit company. In these circumstances, the Trial Court rightly directed to hand over the key to the petitioner as he is the owner of the building, but direction with regard to deposit of Rs.3,00,000/- in the form of Fixed Deposit is unwarranted. Therefore, the impugned order is hereby set aside in respect of depositing of Rs.3,00,000/- in the form of Fixed Deposit. In other aspects, the impugned order is confirmed and the respondent police is directed to unlock the petitioner's premises and to hand over the key to the petitioner.”



Crl.R.C.No.2302 of 2024

WEB COPY 11. The judgment of the Hon'ble Supreme Court in ***Dalichand's case*** [cited supra] relied upon by the 3rd respondent would not be applicable to the facts of the case as it is not a case of seizure of the property by the police during investigation.

12. Therefore, this Court is of the view that the impugned order in as much it imposes the condition to pay the amount to be fixed by the competent authority towards the value of the interiors and directing the petitioner to file an affidavit, expressing his willingness to pay the said amount, is onerous and unwarranted in the facts of the case. Accordingly, the said condition alone is set aside and the respondents 1 and 2, shall hand over the keys of the premises to the petitioner within a period of four weeks from today, after removing any articles said to be belonging to the 3rd respondent.

13. With the above observation, the Criminal Revision Case is allowed.

07.02.2025

Index : Yes/No

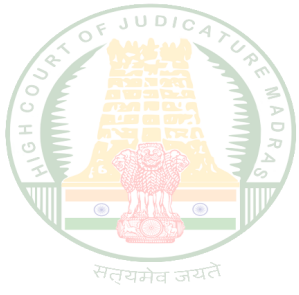


Crl.R.C.No.2302 of 2024

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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Crl.R.C.No.2302 of 2024

SUNDER MOHAN, J.

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To

1. The Special Judge,
under the Tamil Nadu Protection of Interest
of Depositors and Financial Establishment Act, 1997,
Chennai.
2. The Inspector of Police,
District Crime Branch,
Thiruvallur.
3. The District Revenue Officer,
Thiruvallur District,
Thiruvallur.
4. The Public Prosecutor,
High Court, Madras.

Pre-delivery order in
Crl.R.C.No.2302 of 2024

07.02.2025