

Crl.R.C.(MD)No.327 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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Reserved on : 04.04.2025

Pronounced on : 04.06.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.327 of 2025

and

Crl.M.P.(MD)No.3351 of 2025

D.Natarajan

... Petitioner/
Respondent/
Accused

Vs.

V.Muthukumar

... Respondent/
Petitioner/
Complainant

Prayer : This Criminal Revision Case filed under Section 438 r/w 442 B.N.S.S., to call for the records pertaining to the impugned interim order passed by the learned Judicial Magistrate Fast Track Court at Srivilliputtur in Crl.M.P.No.10 of 2024 in S.T.C.No.59 of 2023 dated 07.01.2025 and set aside the same by allowing the revision petition.



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For Petitioner : Mr.K.Mahendran

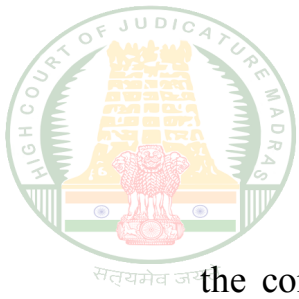
For Respondent : Mr.M.Thilagar

ORDER

The Criminal Revision is directed against the order passed in Crl.M.P.No.10 of 2024 in S.T.C.No.59 of 2023 dated 07.01.2025 on the file of the Fast Track Court, Srivilliputtur, directing the petitioner/accused to deposit 20% of the cheque amount to the respondent/complainant.

2. The petitioner is the accused and the respondent as complainant has filed a private complaint under Section 200 Cr.P.C. for the alleged offence under Section 138 r/w 142 of Negotiable Instruments Act. When the trial of the case was pending in part-heard stage, the respondent invoking Section 143(A)(1) of Negotiable Instruments Act has filed the above petition seeking orders directing the petitioner to deposit 20% of the cheque amount into the Court.

3. The case of the respondent, in the petition filed under Section 143(A)(1) of Negotiable Instruments Act, is that during the pendency of

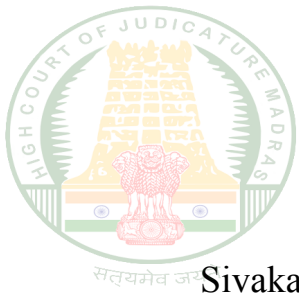


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the complaint, bailable warrant came to be issued against the petitioner and since the same was not complied, Non-Bailable Warrant (NBW) came to be issued, that since the concerned police has not taken any steps to execute the Non-Bailable Warrant (NBW), on the petition filed by the respondent, show cause notice was issued to the concerned police, that subsequently, the petitioner was arrested on 12.09.2024 and was remanded to judicial custody, that the petitioner, in the bail application as well as in the condition relaxation petition, has not furnished his correct address, that the jurisdictional police while bailable warrant was pending has informed the Court that the petitioner was not available in the address given by him, that there is every possibility for the petitioner to abscond himself to avoid the trial and that therefore the respondent was constrained to file the above petition seeking interim compensation under Section 143(A)(1) of Negotiable Instruments Act.

4. The petitioner has filed a lengthy counter affidavit stating that the petitioner's wife had obtained loans from several persons and hence, they were constrained to sell their property at Othakadai and repaid the loan amounts, that the petitioner's wife had also obtained loan from one



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Sivakami and her son Manikandan a sum of Rs.5 lakhs by giving signed and unfilled Indian Bank cheque as a security, that though they have repaid the loan amount, the said Sivakami and Manikandan had informed that they have misplaced the cheque and they will not misuse the cheque, that the petitioner subsequently came to know that the said Sivakami and Manikandan by utilizing the unfilled cheque, has lodged the complaint through the respondent, as if, the petitioner had obtained loan of Rs.30 lakhs, that the petitioner does not know the respondent and he never borrowed any amount from the respondent, that the respondent, who is an advocate, has not produced any material to prove his source of income for advancing such huge amount of Rs.30 lakhs, that the respondent has not produced income tax statement to show the loan amount was shown therein and that since the respondent has not proved his case, he is not entitled to get any interim compensation.

5. Before entering into further discussion, it is necessary to refer the decision of this Court in ***Crl.O.P.Nos.15438 and 15440 of 2019 dated 12.07.2019***, relied on by the learned counsel appearing for the petitioner, wherein, this Court has observed that the discretionary power that is



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vested with the trial Court in ordering for interim compensation must be supported by reasons and it is necessary to refer the relevant passage hereunder:-

“8. Therefore, whenever the trial Court exercises its jurisdiction under Section 143A(1) of the Act, it shall record as to why it directs the accused person (drawer of the 13 cheque) to pay the interim compensation to the complainant. The reasons may be varied. For instance, the accused person would have absconded for a longtime and thereby would have protracted the proceedings or the accused person would have intentionally evaded service for a long time and only after repeated attempts, appears before the Court, or the enforceable debt or liability in a case, is borne out by overwhelming materials which the accused person could not on the face of it deny or where the accused person accepts the debt or liability partly or where the accused person does not cross examine the witnesses and keeps on dragging with the proceedings by filing one petition after another or the accused person absconds and by virtue of a non-bailable warrant he is secured and brought before the Court after a long time or he files a recall non-bailable warrant petition after a long time and the Court while considering his petition for recalling the non-bailable warrant can invoke Section 143A(1) of the Act. This list is not exhaustive and it is more



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illustrative as to the various circumstances under which the trial Court will be justified in exercising its jurisdiction under Section 143A(1) of the Act, by directing the accused person to pay the interim compensation of 20% to the complainant. ”

6. In the case on hand, as rightly contended by the learned counsel appearing for the respondent, the learned Magistrate has assigned valid reasons for ordering interim compensation.

7. It is evident from the records that the petitioner has entered into appearance on 08.03.2023 and on questioning, he pleaded not guilty and hence, the case was posted for trial, that on 20.03.2023, the respondent came to be examined as P.W.1 and since he was not cross-examined, posted to 10.04.2023 for respondent's side further evidence and that on 25.04.2023, the petitioner was questioned under Section 313(1) Cr.P.C. and adjourned to 09.05.2023 for defence evidence. It is further evident that there was no representation for the petitioner and the petitioner was also called absent, bailable warrant came to be issued on 19.07.2023, that since bailable warrant was pending for long time, the respondent moved

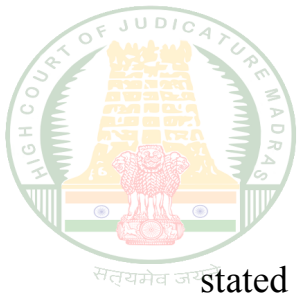


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an application in M.P.No.2 of 2024 for issuance of Non-Bailable Warrant (NBW) and the learned Magistrate, considering the report of the Othakadai Police that the petitioner was not available in the address, that despite granting adjournments, the petitioner has not chosen to file any application to recall the warrant and that since the case is pending without any progress, has allowed the said application and ordered for issuance of Non-Bailable Warrant (NBW) vide order dated 19.03.2024, that on the petition filed by the respondent, show cause notice was sent to the Inspector of Police, Othakadai and in pursuance of the same, he appeared before the concerned Court, that subsequently, Non-Bailable Warrant (NBW) was executed and the petitioner came to be arrested on 12.09.2024 and on production before the concerned Court, he was remanded to judicial custody and that subsequently, he was released on bail.

8. As rightly contended by the learned counsel appearing for the respondent, the petitioner has changed his counsels thrice. In the ground of revision, he made allegations against his counsel that he colluded with the respondent and failed to inform the stage of the case. In the affidavit filed in support of the revision and stay application, the petitioner has



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stated that since he was working in Government job in Madurai District, he will not be available for some time to attend the Court proceedings due to his work burden as well as health condition, that his counsel on record has assured him that he would follow the case and would file a petition to condone his absence and that suddenly the petitioner was arrested on 12.09.2024 stating that Non-Bailable Warrant (NBW) was issued against him and at that time, he came to understand that his counsel did not follow the case in proper manner by colluding with the respondent. The above allegations, as rightly contended by the learned counsel appearing for the respondent, are very hard to believe.

9. It is pertinent to mention that the petitioner having received the legal notice of the respondent, has not chosen to send any reply.

10. It is pertinent to mention that though the respondent was examined as early as on 20.03.2023, the petitioner has not chosen to cross-examine the respondent till the impugned order. It is further evident from the records that despite taking sufficient opportunities to adduce defence evidence, the petitioner has not chosen to adduce any evidence and hence,



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defence side evidence was closed *suo motu* on 07.01.2025 and his application to advance the hearing came to be dismissed.

11. No doubt, as rightly contended by the learned counsel appearing for the respondent, the other contentions of the petitioner that the respondent has not proved his source of income nor proved his case cannot be gone into at the present stage and more importantly, the evidence of P.W.1, without cross-examination, remains unchallenged, as of now.

12. Considering the above, the objections raised by the petitioner are absolutely devoid of substance and the learned Judicial Magistrate, by rightly rejecting the same, has granted interim compensation. Hence, the impugned order directing the petitioner to deposit 20% of the cheque amount into the Court is perfectly in order and the same cannot be found fault with. Consequently, this Court concludes that the revision is devoid of merits and the same is liable to be dismissed.

13. In the result, this Criminal Revision Case stands dismissed. The



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petitioner is directed to deposit **20% of the cheque amount** before the trial Court within a period of 30 days from the date of receipt of a copy of this order, failing which, to take necessary steps to recover the said amount, as if, it were fine. Consequently, connected Miscellaneous Petition is closed. No costs.

04.06.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

1.The Judicial Magistrate,
Fast Track Court,
Srivilliputtur.



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K.MURALI SHANKAR,J.

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Pre-Delivery Order made in
Crl.R.C.(MD)No.327 of 2025
and
Crl.M.P.(MD)No.3351 of 2025

Dated : 04.06.2025