



Crl.R.C(MD)No.1200 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.12.2025**

CORAM

THE HONOURABLE **MR.JUSTICE MOHAMMED SHAFFIQ**

CRL.R.C.(MD)No.1200 of 2024

S.Alagar

... Petitioner

vs.

P.Chellapandi

... Respondent

PRAYER: Criminal Revision Petition is filed under Section 438 r/w 442 of BNSS, 2023, to call for the records passed in Crl.M.P.No.2923 of 2024, dated 07.11.2024 on the file of the Judicial Magistrate Court, Uthamapalayam and to set aside the same and permit to withdraw the deposit amount in 138 proceedings.

For Petitioner : Mrs.B.Bhuvaneshvari

ORDER

Heard Mrs.B.Bhuvaneshvari, learned Counsel for petitioner.



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2. Criminal Revision Petition has been filed to set aside the order passed in CrI.M.P.No.2923 of 2024, dated 07.11.2024 on the file of Judicial Magistrate Court, Uthamapalayam, whereby petitioner's request for withdrawing the money of Rs.60,000/- deposited by respondent/accused herein was rejected only on the premise that petitioner herein has not given any undertaking to refund the amount to respondent herein in case respondent herein ultimately succeeds in appeal.

3. Learned Counsel for petitioner would submit that petitioner is ready and willing to file an affidavit of undertaking before this Court to refund the amount to respondent herein if respondent succeeds in the appeal pending before the lower Appellate Court.

4. In the circumstances, respondent, despite being served, has not entered appearance. The only reason that prompted the Fast Track Court to reject petitioner's request for permission to withdraw the amount, was non filing of undertaking affidavit to refund if respondent succeeds in appeal.



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5. Petitioner has filed an affidavit of undertaking before this Court with regard to deposit of amount ie., Rs.60,000/- before Judicial Magistrate, Uthamapalayam, in case accused succeeds in the appeal.

6. In this regard, it is useful to refer to Section 148(3) of Negotiable Instruments Act, 1881, which reads as under:

“[148. Power of Appellate Court to order payment pending appeal against conviction.

.....

(3) The Appellate Court may direct the release of the amount deposited by the appellant to the complainant at any time during the pendency of the appeal:

Provided that if the appellant is acquitted, the Court shall direct the complainant to repay to the appellant the amount so released, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause

being shown by the complainant.]”



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7. Taking into consideration, the undertaking affidavit filed by the petitioner before this Court and in view of the proviso to Sub Section (3) of Section 148 of Negotiable Instruments Act, 1881, this Court directs that if the Respondent succeeds in appeal, the petitioner herein shall repay the amount of Rs.60,000/- with interest within the period prescribed in the proviso to Sub section (3) of Section 148 of Negotiable Instruments Act.

8. This Criminal Revision Petition stands **disposed of** on the above terms.

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
Nsr

03.12.2025

To:

- 1.The Judicial Magistrate Court, Uthamapalayam.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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MOHAMMED SHAFFIQ, J.

Nsr

Order made in
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