

IN THE COURT OF THE ADDITIONAL DISTRICT AND SESSIONS JUDGE
(FTC) TENKASI.

Present: Thiru.S. Manojkumar, M.A., M.L.,
Additional District and Sessions Judge, Tenkasi

Tuesday, the 25th Day of March 2025

Cr.M.P. No. 1011/2023

in

C.A.No. 11/2023

(CNR No:TNTS01-000161-2023)

Mohamed Hanifa ..Petitioner/Respondent/Complainant

/Vs/

Manickam ...Respondent/ Appellant/Accused

This petition came up before this Court on 15.03.2025 in the presence of Thiru.S.Ramachandran, Advocate for the petitioner and Thiru.R. Raju Advocate for the Respondent and after hearing arguments of both sides and upon perusing the documents and having stood-over till this day for consideration, this court delivered the following

ORDER

This Petition has been filed on the side of the petitioner u/s 148(3) of N.I.Act and praying to permit the petitioner to withdraw the amount of Rs.2,00,000/- which is deposited by the Respondent in the account of the District Munsif cum Judicial Magistrate Court, Sengottai in S.T.C.No. 335/2020 as per the order of the Hon'ble Principal Sessions Court, Tirunelveli in Cr.M.P.No. 1205/2023 in C.A.No. 11/2023 dt. 31.01.2023.

2) Briefly stated averments in the Petition are follows:

The petitioner herein filed complaint against the accused u/s 138 of N.I.Act before the Judicial Magistrate Court, Sengottai in S.T.C.No. 335/2020 and on 11.01.2023 the accused was convicted and sentenced to undergo imprisonment for two years and to pay a compensation of Rs.10,00,000/- to the complainant within a month from the date of Judgment in default to undergo S.I for six months and the accused preferred Appeal against the conviction and as per the order of Hon'ble Principal Sessions Court, Tiurnelveli in Cr.M.P. 1205/2023 dt. 31.01.2023, the accused has deposited 20% of the compensation amount,i.e. a sum of Rs.2,00,000/- in the Judicial Magistrate Court, Sengottai and the petitioner is entitled to get the amount. Hence, the petitioner prayed to permit the petitioner to withdraw the said amount. Hence, this petition is to be allowed.

3) Briefly stated averments in the Counter are follows:

The petition filed by the petitioner is not acceptable one. The reason mentioned in the petition is not proper and not acceptable one. As per the order passed by the Hon'ble Principal District Judge, Tirunelveli in Cr.M.P.No. 1205/2023 dt. 31.01.2023, the Respondent deposited a sum of Rs.2,00,000/- before the learned District Munsif cum Judicial Magistrate Court, Sengottai and the said amount is kept in Cr.C.D. Hence, the petitioner has no right to claim the above said amount till the disposal of the Appeal. Further, there is lot of chance for the Respondent to succeed the Appeal. Hence, the petition is to be dismissed.

4) Now the point for consideration is whether the petition is to be allowed or not?

5) Point: The Petitioner has filed this petition u/s 148(3) of N.I.Act praying to permit the petitioner to withdraw the amount of Rs.2,00,000/- which is deposited by the Respondent in the account of District Munsif cum Judicial Magistrate Court, Sengottai in S.T.C.No. 335/2020 as per the order of the Hon'ble Principal Sessions Court, Tirunelveli in Cr.M.P.No.1205/2023 dt. 31.01.2023. On perusal of records, it is seen that the petitioner is complainant and the Respondent is accused in S.T.C.No. 335/2020 of District Munsif cum Judicial Magistrate Court, Sengottai and on 11.01.2023, the learned Magistrate, Sengottai convicted the accused u/s 138 of N.I.Act and sentenced to undergo simple imprisonment for two years and also directed the accused to pay the compensation of Rs.10,00,000/- to the complainant within a month from the date of Judgment. Aggrieved against the Judgment, the accused preferred this Appeal and the Hon'ble Principal Sessions Court, Tirunelveli, vide order in CrI.M.P.No. 1205/2023 dt. 31.01.2023 directed the accused to deposit 20% of the compensation amount before the Judicial Magistrate Court, Sengottai and the said amount has to be kept in CrI.C.D. Accordingly, the accused has deposited the said amount before the Court. Now, the petitioner filed this petition u/s 148(3) of N.I.Act to permit him to withdraw the above said deposited amount. In this regard, Section 148(3) reads as follows:

(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:

Even though the learned counsel for the Respondent has argued that the petitioner has no right to claim the above said amount till the disposal of the Appeal, as per Section 148(3) of N.I.Act as read above, the complainant can be permitted any time during the pendency of the appeal to withdraw the

amount deposited by the Respondent. Moreover, the reasons stated by the petitioner are acceptable in nature and it is also noteworthy to point out that the Respondent has not taken any steps to show progress for disposal of the Appeal. Therefore, this Court is of the view, that the petitioner is entitled to get the prayer as he sought for in the petition.

6) In the result, this petition is allowed and the Petitioner/Respondent/Complainant is hereby permitted to withdraw the amount of Rs.2,00,000/- deposited by the Respondent/Appellant/Accused in S.T.C. 335/2020 on the file of the learned District Munsif cum Judicial Magistrate, Sengottai as per the order Hon'ble Principal Sessions Court, Tirunelveli, vide order in CrI.M.P.No. 1205/2023 dt. 31.01.2023.

Dictated to the Steno Typist, taken down by her in shorthand, transcribed and typed by her in the computer and corrected and pronounced by me in the open court, on this, the 25th Day of March 2025.

Additional District and Sessions Judge,
Tenkasi.

Copy to:

- 1) The District Munsif cum Judicial Magistrate, Sengottai
- 2) The Counsel for the Petitioner/Respondent/Complainant
- 3) The Counsel for the Respondent/Appellant/Accused.

