

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.08.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.OP.No.19107 of 2015

and

MP.No.1 of 2015

Ramachandiramoothi

... Petitioner

Vs

Ramalingam

... Respondent

Criminal Original Petition filed under Section 439[1][b] of Cr.P.C., praying to modify the condition imposed in order dated 29.04.2015 in Cr.M.P.No.39 of 2015 in C.A.No.11 of 2015 on the file of Sessions Court, Karaikal in so far as it imposes a condition to deposit Rs.75,000/-.

For Petitioner : Mr.S.Sounthar

For Respondent : No Appearance

ORDER

This petition has been filed to modify the condition imposed in order dated 29.04.2015 in Cr.M.P.No.39 of 2015 in C.A.No.11 of 2015 by the learned Sessions Judge, Karaikal.

2. Heard Mr.S.Sounthar, learned counsel for the petitioner; Mr.Thangavel, learned Additional Public Prosecutor [Pondy] and perused the materials placed on record.

3. This petitioner was convicted under Section 138 of Negotiable Instruments Act and was sentenced to undergo simple imprisonment for six months and pay a fine of Rs.1,70,000/- in respect of a cheque for Rs.85,000/- by the Trial Court. Aggrieved by the conviction and sentence, the petitioner filed Crl.A.No.11 of 2015 before the Sessions Court, Karaikal and the learned Sessions Judge by order dated 29.04.2015 in Crl.MP.No.39 of 2015 in Crl.A.No.11 of 2015 granted suspension of sentence, on condition that, the petitioner should deposit Rs.10,000/- in any nationalized

bank for a period of one year to the credit of the Crl.A.No.11 of 2015 and further deposit Rs.75,000/- within one month, from the date of the order. Challenging this portion of the order, the petitioner/accused is before this Court.

4. In matters arising under Section 138 of Negotiable Instruments Act, time and again, the Hon'ble Supreme Court has stated that the courts should impose compensation representing the value of the cheque so as to do complete justice to the complainant. In this case, the Trial Court had imposed Rs.1,79,000/- as compensation. But whereas, the first Appellate Court has suspended the sentence, on condition that, the petitioner shall deposit Rs.85,000/- [Rs.10,000/- + Rs.75,000/-].

5. In the considered opinion of this Court, it cannot be said to be unreasonable warranting interference of this Court into the discretionary jurisdiction of the Appellate Court. No doubt, this Court can interfere in cases, where onerous conditions are imposed by the Courts below. In this case, no onerous condition has been imposed and the Appellate Court has even given one month time for the petitioner to deposit the amount only in a nationalized bank.

6. Hence, this petition is devoid of merits and the same is dismissed. However, further period of one month is given to the petitioner to comply with the order dated 29.04.2015 passed by the Appellate Court in Crl.MP.No.39 of 2015 from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Deputy Registrar(J)

//True Copy//

Sub Assistant Registrar

gya

To

1.The Sessions Judge,
Karaikal.

2.The Additional Public Prosecutor(Pondy),
High Court, Madras.

+1cc to M/s.s.Sounthar, Advocate, S.R.No.40720

CRL.OP.No.19107 of 2015

AK(CO)
CA(27/08/2015)