

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO
Crl.P.No.9666 of 2015

ORDER :

This petition is filed under Section 482 of the Code of Criminal Procedure (for short, 'the CrPC') by the Petitioner/Petitioner(accused in C.C.No.62 of 2013) to set aside(quash) the order in Crl.M.P.No.326 of 2015 in Crl.M.P.No.320 of 2015 in C.C.No.724 of 2015, dt.31.08.2015 on the file of the III Additional District & Sessions Judge, Ranga Reddy district, at L.B.Nagar, Hyderabad.

2. Heard.

3. The offence under Section 138 of the N.I.Act, is outcome of a private complaint filed by the 2nd respondent-defacto complainant that was taken cognizance and after securing presence of the petitioner/accused, examination under Section 251 of Cr.P.C. by proceeding under Section 145 of the N.I. Act and after hearing, the trial Court found the accused guilty and sentenced to undergo Simple Imprisonment for one year and also to pay a fine/compensation of Rs.15,50,000/- with default sentence, Simple Imprisonment for 6 months and the same is impugned by the petitioner/accused in Crl.A.No.724/2015 and pending the appeal, he filed the application in Crl.M.P.No.320 of 2015 to suspend the sentence of imprisonment and compensation the same was allowed conditionally by the learned III Additional District and Sessions Judge, dated 19.08.2015 subject to deposit of 1/4th of the compensation amount within 15 days and therefrom that was extended in Crl.M.P.No.326 of 2015 till 15.09.2015 and the petitioner now claims further extension without paying any amount yet. It is now seeks to impugn the quantum of 1/4th to deposit as onerous, the counsel placed reliance on the expressions in **Dilip S.Dahanukar Vs. Kotak Mahindra Private Company Limited**^[1]. In fact, in the expression supra, the Apex Court on facts suspended the sentence subject to payment of one lakh out

of the cheque amount of about 14 lakhs therein and in the above expressions it is observed that it depends on facts of the respective cases. In this case, the learned Sessions Judge exercised the discretion in directing to pay or deposit 1/4th of the amount but having not paid any amount from that order dated 19.08.2015, also sought twice extension of the time and now chosen to impugn the quantum.

4. In view of the factual matrix and as per the expression supra, the fine/compensation amount to be paid is modified from 1/4th to 1/3rd and the same is to be paid or deposited within one month from now. Needless to say on such payment or deposit, the complainant herein to withdraw the amount by furnishing security.

5. With the above observations, the Criminal Petition is disposed of. Consequently, miscellaneous applications, if any, pending in this Petition shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date: 21.09.2015

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[\[1\]](#) 2007(6) SC 528