

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.10738 OF 2015

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ORDER:

This petition is filed to modify the condition imposed in the order dated 05.10.2015 in CrI.M.P.No.125 of 2015 in CrI.A.No.476 of 2015 passed by the learned XII Additional District and Sessions Judge, Pithapuram, East Godavari District.

Petitioner was charged for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, in C.C.No.296 of 2011 on the file of Additional Judicial Magistrate of First Class, Tuni, and was convicted and sentenced to undergo simple imprisonment for a period of six months and to pay compensation of Rs.2,00,000/- to the complainant without any default clause. Aggrieved by the same, the petitioner preferred an appeal before the learned XII Additional District and Sessions Judge, Pithapuram, East Godavari District, in CrI.A.No.476 of 2015, and sought suspension of the sentence pending the appeal. The appellate Court, by order dated 05.10.2015, suspended the substantive sentence of imprisonment and payment of compensation subject to the condition of the petitioner depositing 1/4th of the compensation amount and executing a bond for Rs.10,000/- with two sureties for a like sum to the satisfaction of the trial Court.

Learned counsel for the petitioner contends that this Court can relax the conditions imposed by the appellate Court by exercising power under Sections 389, 397 and 401 of Cr.P.C. He has drawn the attention of this Court to the judgment of the apex Court in **Stanny Felix Pinto v. Jangid Builders Pvt. Ltd.**, where the apex Court modified the conditions imposed by this Court. In the said order, the apex Court did not lay any law and declare any principle except modifying the order in the given circumstances. Therefore, the said decision is of no assistance to the petitioner for seeking modification of the order of the appellate Court. Learned counsel has further drawn the attention of this Court to an interim order passed in CrI.R.C.M.P.No.2607 of 2015 in

Crl.R.C.M.P.No.2584 of 2015 in Crl.R.C.No.1632 of 2015 (between Vempadapu Rajendra Rao and the State of Andhra Pradesh), wherein this Court has just granted some time to deposit the amount that was earlier ordered to be deposited. Thus, no law was laid down even therein. Either the apex Court or this Court did not specifically lay down any law in the aforesaid orders and are therefore not binding precedents.

At the end of the arguments, learned counsel for the petitioner requested to grant sufficient time to comply with the direction of the appellate Court.

Considering the same, the petitioner is granted four weeks time from today, which would expire by 16.11.2015, for complying with the directions issued by the appellate Court in the order dated 05.10.2015 in Crl.M.P.No.125 of 2015 in Crl.A.No.476 of 2015.

The criminal petition is accordingly disposed of.

M.SATYANARAYANA MURTHY, J

Date: 19.10.2015

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