

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.OP No.24430 of 2016

Sabapathi

... Petitioner

Vs

L.Madhavarajan

... Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to set aside order dated 20.10.2016 made in Criminal Miscellaneous Petition No.1758/2016 in Criminal Appeal No.12/2016 on the file of the Principal Sessions Judge, Dharmapuri imposing a condition to deposit Rs.3,00,000/- within 15 days in the Fast Track Court (JM Level), Dharmapuri from the date of the order.

For Petitioner : Mr.I. Abrar Md. Abdullah

ORDER

This criminal original petition has been filed to set aside order dated 20.10.2016 made in Criminal Miscellaneous Petition No.1758/2016 in Criminal Appeal No.12/2016 on the file of the Principal Sessions Court, Dharmapuri imposing a condition to deposit Rs.3,00,000/- within 15 days in the Fast Track Court (JM Level), Dharmapuri from the date of the order.

2. The petitioner was convicted in STC No.39 of 2015 by the Judicial Magistrate, (Fast Track Court), Dharmapuri on 21.09.2016 for offences under Section 138 of the Negotiable Instruments Act, 1881 and was sentenced to undergo one year Simple Imprisonment and to pay compensation of Rs.6 lakhs. Challenging the conviction and sentence, the petitioner filed CMP.No.1758 of 2016 in Cr1.A.No.12 of 2016 before the Principal Sessions Judge, Dharmapuri for suspension of sentence under Section 389(1) Cr.P.C. The Principal Sessions Judge was pleased to suspend the sentence on the following condition :

"Considering the above facts and circumstances, the Appeal cannot be taken immediately. For this reason, this Court suspend the sentence imposed on the Petitioner / Appellant / Accused on condition to deposit Rs.3,00,000/- within 15 days in the Fast Track Court (JM Level), Dharmapuri from the date of this order, failing which the suspension of sentence will be cancelled."

3. Challenging the aforesaid condition, the petitioner is before this Court.

4. Learned counsel for the petitioner submitted that the petitioner was not able to deposit the amount within fifteen days, on account of continuous boycott of Courts in the trial Court. He has also submitted that the said amount of Rs.3 lakhs is very onerous.

5. This Court gave its anxious consideration to the rival submissions.

6. The cheque amount is Rs.6 lakhs and the trial Court had directed the petitioner to pay the cheque amount as compensation, whereas the Sessions Judge has reduced the compensation amount to 50%, which cannot be said to be onerous. However, it will be in the interest of justice, if time is extended for depositing the said amount.

7. Accordingly, four weeks time is extended, from the date of receipt of a copy of this order, to deposit Rs.3 lakhs before the trial Court and on such deposit, the trial Court is directed to re-deposit the said sum in a Fixed Deposit in any nationalised bank, thereby the account will accrue interest and it is open to the trial Court to pass appropriate orders with regard to the disbursing of the amount at the end of the appeal. It is made clear that failure to deposit the amount within four weeks will entail automatic cancellation of suspension of sentence.

With the above direction, this petition is ordered.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

1. The Principal Sessions Judge,
Dharmapuri

2. The Judicial Magistrate
Fast Track Court(JM Level)
Dharmapuri

NM (CO)
kk 30/11

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