

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

CRIMINAL REVISION CASE No.1172 of 2016

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ORDER:

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Aggrieved by the order, dated 13.04.2016 passed in Crl.M.P.No.126 of 2016 in C.A.No.72 of 2016 on the file of the I Additional Sessions Judge, Ongole, the present Criminal Revision Case is filed.

As seen from the record, the second respondent herein filed a private complaint against the petitioner herein for an offence punishable under Section 138 of the Negotiable Instruments Act, 1881. The said case was taken on file as C.C.No.176 of 2012 on the file of the Judicial Magistrate of First Class, Parchur. The learned Magistrate convicted the petitioner and sentenced him to undergo simple imprisonment for a period of six months. Aggrieved by the same, the petitioner herein filed C.A.No.72 of 2016. Along with the appeal, the petitioner also filed Crl.M.P.No.126 of 2016 seeking suspension of the sentence. The learned Sessions Judge while suspending the sentence imposed in C.C.No.176 of 2012 directed the petitioner to execute a bond for Rs.10,000/- with two sureties for a like sum each to the satisfaction of the Judicial Magistrate of First Class, Parchur and further directed him to deposit 25% of the cheque amount on or before 06.05.2016, in default the suspension petition would stand dismissed. Challenging the same, the present revision is filed.

At the time when the matter is taken up for hearing the learned counsel appearing for the petitioner restricts his prayer seeking reduction of the deposit amount and also extension of

time.

In *Dilip S.Dahanukar V. Kotak Mahindra Co. Ltd.*^[1] *The Apex Court held* in Para No.72 held as under :

“72. We, therefore, are of the opinion:

(i) in a case of this nature, sub-section (2) of Section 357 of the code of Criminal Procedure would be attracted even when the appellant was directed to pay compensation;

(ii) the appellate court, however, while suspending the sentence, was entitled to put the appellant on terms. However, no such term could be put as a condition precedent for entertaining the appeal which is a constitutional and statutory right;

(iii) the amount of compensation must be a reasonable sum;

(iv) the court, while fixing such amount, must have regard to all relevant factors including the one referred to in sub-section (5) of Section 357 of the Code of Criminal Procedure;

(v) no unreasonable amount of compensation can be directed to be paid.”

In view of the judgment referred to above, the order passed in Crl.M.P.No.126 of 2016 in C.A.No.72 of 2016 is modified with regard to deposit of amount and the petitioner is directed to deposit an amount of Rs.50,000/- within a period of four (04) weeks from today.

With the above direction the Criminal Revision Case is disposed of.

Miscellaneous petitions, if any, shall stand closed.

JUSTICE C. PRAVEEN KUMAR

12.05.2016

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