

THE HONOURABLE SRI JUSTICE M.S.K.JAISWAL
Criminal Petition No.11721 of 2016

ORDER:

This Criminal Petition is filed under Section 482 of Code of Criminal Procedure (Cr.P.C) by the petitioner/accused seeking to quash the order dated 02-08-2016 passed in CrI.M.P.No.632 of 2016 in C.A.No.150 of 2016 on the file of the VIII Additional District & Sessions Judge, Ongole, Prakasam District to the extent of condition to deposit half of the compensation amount.

The main grievance of the petitioner is that by the impugned order the learned Sessions Judge while suspending the sentence imposed by the learned Special Judicial Magistrate of I Class, Excise Court, Ongole by order dated 20-07-2016 in C.C.No.262 of 2014, *inter alia* imposed a condition calling upon the petitioner-accused to deposit half of the compensation amount. Therefore, the learned counsel for the petitioner contends that now the petitioner, in order to continue the appeal, is required to deposit Rs.15,00,000/- towards compensation amount, which is excessive and exorbitant.

In support of his contention the learned counsel for the petitioner-accused relied on a judgment of the Supreme Court in ***DILIP S. DAHANUKAR v. KOTAK MAHINDRA CO. LTD***

[1]. The relevant portion of the judgment reads 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.”

On behalf of the Respondent No.1, Sri K.Mohan Rami Reddy, learned counsel, appeared and he opposed the petition.

Taking into consideration the totality of facts and circumstances and defence as set up by the petitioner/accused, this Court is of the view that ends of justice would be met, if the order of the lower appellate court is modified to the following effect :

The condition imposed by the lower appellate court in the impugned order that petitioner shall deposit half of the compensation amount is hereby suspended till disposal of the C.A.No.150 of 2016, subject to the petitioner/accused depositing Rs.7,50,000/- (Rupees Seven Lakhs Fifty Thousand only), which comes to 25% of the compensation amount. The rest of the directions in the order, including direction to deposit the fine amount of Rs.10,000/-, remain unaltered.

Accordingly, the Criminal Petition is disposed of. Miscellaneous petitions pending in this petition, if any, shall stand closed.

JUSTICE M.S.K.JAISWAL

10.08.2016

skmr

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