

THE HON'BLE SRI JUSTICE RAJA ELANGO

Criminal Petition No.4184 of 2016

ORDER:

This Criminal Petition is filed under Section 482 Cr.P.C. challenging the order dated 29-01-2016 in Crl.M.P.No.14 of 2016 in C.A.No.17 of 2016 passed by the learned IV Additional District and Sessions Judge, Nellore, allowing the petition filed under Section 389 (1) Cr.P.C. seeking to suspend the sentence, by directing petitioner/appellant to deposit Rs.3,00,000/- on or before 2.5.2016.

The petitioner herein the accused and the second respondent is the complainant in C.C.No.119 of 2014. The second respondent, who is complainant, filed C.C.No.119 of 2014 under Section 138 of the Negotiable Instruments Act for dishonour of cheque issued by the petitioner/accused for an amount of Rs.37,00,000/-. The learned I Additional Junior Civil Judge, Nellore, after considering both oral and documentary evidence adduced, convicted and sentenced the petitioner/accused to undergo simple imprisonment for one year for the alleged offence and also to pay a sum of Rs.40,00,000/- as compensation to the complainant by the order dated 07-12-2015. Challenging the said judgment, the petitioner/accused preferred an appeal in Criminal Appeal No.17 of 2016 before the IV Additional District and Sessions Judge, Nellore. The petitioner/accused also filed Crl.M.P.No.14 of 2016 under Section 389 (1) Cr.P.C. seeking suspension of sentence imposed by the trial Judge. The learned Sessions Judge, on considering the submission of the learned counsel for the petitioner, suspended the sentence of imprisonment imposed by the trial Judge till 02-05-2016 subject to deposit of Rs.3,00,000/- out of total compensation of

Rs.40,00,000/- on or before 02-05-2016. Aggrieved by the said order, the present criminal petition is filed.

Heard the learned counsel for the petitioners and perused the material.

Having regard to the facts and circumstances of the case and the submission of the learned counsel for the petitioner/accused, this Court is of the view that imposition of deposit of such a huge amount, while suspending the sentence, is nothing but onerous and arduous and that when the appeal itself is admitted for hearing on merits, no need to deposit of any such amount prior to the decision of the appeal. In such circumstances, interest of justice would be better served, if the condition of deposit of amount of Rs.3,00,000/- imposed while suspending the sentence of imprisonment is relaxed.

Therefore, the order dated 29-01-2016 in CrI.M.P.No.14 of 2016 in C.A.No.17 of 2016 is modified relaxing the deposit of an amount of Rs.3,00,000/- for suspension of sentence and the said order shall remain uninterfered in all other respects.

Accordingly, the criminal petition is disposed of to the extent indicated above. Consequently, miscellaneous petitions pending, if any, shall stand closed.

RAJA ELANGO, J

Date: 29-03-2016

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