

THE HON'BLE SRI JUSTICE RAJA ELANGO
CRIMINAL PETITION No.3757 OF 2015

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ORDER:

This Criminal Petition is filed by the petitioner, under Section 482 of the Code of Criminal Procedure, seeking to relax the condition imposed in Crl.A.M.P. No.100 of 2016 in Crl.A. No.37 of 2016 by the I-Additional Sessions Judge, Ongole, whereby the learned Sessions Judge, while suspending the sentence imposed on the petitioner by the II-Additional Judicial Magistrate of First Class, Ongole, vide judgment, dated 05.02.2016, in CC No.264 of 2012, directed him to deposit 25% of the cheque amount on or before 18.03.2016 before Court below.

Heard and perused the material available on record.

The case in brief is that the petitioner borrowed an amount of Rs.5,00,000/- from the de facto complainant and when the de facto complainant demanded for repayment of the said amount, he issued a cheque, which was dishonoured due to funds insufficient. Therefore, the de facto complainant filed CC No.264 of 2012 before the II-Additional Judicial Magistrate of First Class, Ongole, for the offence punishable under Section 138 of the Negotiable Instruments Act. The trial Court convicted the petitioner for the said offence and sentenced him to undergo rigorous imprisonment for a period of two years and also to pay fine of Rs.10,000/-, and further directed the petitioner to pay compensation of Rs.9,00,000/- to the complainant and in default to undergo simple imprisonment for a period of one month. Against the said judgment, the petitioner filed Crl.A. No.37 of 2016 before the I-Additional Sessions Judge, Ongole, and he also filed Crl.A.M.P. No.100 of 2016 to suspend the operation of judgment of the trial Court.

The learned Sessions Judge allowed the said application on condition of petitioner – accused depositing 25% of the cheque amount on or before 18.03.2016 before the II-Additional Judicial

Magistrate of First Class, Ongole. Aggrieved by the said order, the petitioner filed the present petition.

Considering the arguments of both the learned counsel and in view of the fact that the main appeal is pending before the appellate Court with regard to sentence of compensation, this Court is inclined to pass the following order:

The order passed by the learned I-Additional Sessions Judge, Ongole, is set aside to the extent of deposit of 25% of the cheque amount by the petitioner – accused. The other conditions in the said order shall stand unaltered.

With the above modification, the Criminal petition is disposed of. Miscellaneous petitions, pending if any, shall stand closed.

RAJA ELANGO, J

March 21, 2016.
KTL