

HON'BLE SRI JUSTICE M.S.K.JAISWAL

CRIMINAL PETITION No.11756 of 2016

ORDER:-

The petitioner is the accused and he was tried in C.C.No.181 of 2015 by the learned II-Special Magistrate at Hasthinapuram, Ranga Reddy District, for an offence punishable under Section 138 of the N.I.Act, alleging that a cheque for Rs.7 lakhs which was given by him was returned on the ground that the account has been closed. After trial, by Judgment, dated 29.06.2016, the learned Magistrate found the petitioner/accused guilty of the offence and accordingly convicted him and sentenced him to undergo imprisonment for a period of one year and also pay a sum of Rs.7 lakhs by way of compensation to the respondent/complainant.

Aggrieved by the said conviction and sentence, the petitioner/accused preferred CrI.A. (SR) No.3209 of 2016 on the file of the learned Metropolitan Sessions Judge, Ranga Reddy District at L.B.Nagar, and since there was a delay of two days in filing the appeal, he filed CrI.M.P.No.1825 of 2016. The learned Sessions Judge ordered notice to the respondent/complainant on 02.08.2016 and posted the matter to 08.09.2016.

The contention of the petitioner/accused is that the learned Sessions Judge did not suspend the sentence as imposed by the learned Magistrate and if the sentence is not suspended pending appeal, the petitioner/accused will have to comply the Order dated 29.06.2016. It is further submitted that through out the trial, he was on bail and he has got strong case in appeal. Therefore, in

view of the above circumstances, the petitioner has requested that the sentence of imprisonment, as inflicted by the learned Magistrate on 29.06.2016, be suspended.

The petitioner/accused is in the piquant situation because of his not filing the appeal within the statutory period and since there was a delay of two days in filing the Criminal Appeal he had to file application to condone the delay and unless the said delay is condoned, the appeal could not be registered and consequently the sentence could not be suspended.

Taking into consideration the above facts and circumstances and having perused the Judgment of the learned Magistrate, I feel that in the interest of justice a reasonable opportunity should be afforded to the petitioner/accused to obtain appropriate orders from the appellate Court where his statutory appeal is pending. In view of the above, the Criminal Petition is disposed of directing that the sentence as inflicted by the learned Magistrate on 29.06.2016 in C.C.No.181 of 2015 shall be suspended till 30.09.2016 and the petitioner/accused should obtain appropriate orders from the Appellate Court in the meantime.

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

M.S.K.Jaiswal, J

August, 2016

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