

THE HONOURABLE SRI JUSTICE RAJA ELANGO
CRIMINAL PETITION No.4440 OF 2016

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ORDER:

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This Criminal Petition is filed under Section 482 of the Code of Criminal Procedure, 1973 by the petitioner/accused seeking to set aside the order, dated 11.3.2016, passed in CrI.M.P.No.81 of 2016 in C.A.No.57 of 2016 on the file of the Court of the Sessions, Prakasam Division (before the I Additional Sessions Judge, Ongole) insofar as directing the petitioner to deposit 25% of the cheque amount on or before 01.4.2016 before the II Additional Judicial Magistrate of I Class, Ongole failing which, the petition stands dismissed, is concerned.

2. The accused was convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 in C.C.No.1331 of 2014 on the file of the II Additional Judicial Magistrate of First Class, Ongole *vide* order, dated 25.2.2016, and sentenced to undergo simple imprisonment for a period of one year and further, he was directed to pay compensation of Rs.4,00,000/- to the complainant by name Vadlamudi Thirumala Rao under Section 357(3) Cr.P.C. Aggrieved by the said conviction and sentence, the petitioner preferred Criminal Appeal No.57 of 2016 before the I Additional Sessions Judge, Ongole. Pending appeal, the petitioner filed CrI.M.P.No.81 of 2016 in C.A.No.57 of 2016 under Section 389(1) Cr.P.C. to suspend the sentence passed by the learned Magistrate in C.C.No.1331 of 2014 on 25.2.2016 and the same was allowed and the sentence passed by the learned Magistrate in C.C.No.1331 of 2014, dated 25.2.2016, was suspended on condition of the petitioner executing a bond for a sum of Rs.10,000/- with two sureties for the like sum each to the satisfaction of the said Magistrate. Further, the petitioner was directed to deposit 25% of the cheque amount on or before 01.04.2016 before the said Magistrate failing which, the petition stands dismissed.

3. Heard and perused the material available on record.

4. Considering the facts and circumstances of the case, since the appellate Court admitted the appeal for adjudication, this Court is of the view that there is no need for the petitioner/accused to deposit any such amount as directed by the learned Magistrate. Hence, the said condition is hereby set aside.

5. Accordingly, the Criminal Petition is allowed setting aside the order, dated 11.3.2016, passed in CrI.M.P.No.81 of 2016 in C.A.No.57 of 2016 on the file of the Court of the Sessions, Prakasam Division (before the I Additional Sessions Judge, Ongole) insofar as directing the petitioner to deposit 25% of the cheque amount on or before 01.04.2016 before the II Additional Judicial Magistrate of I Class, Ongole failing which, the petition stands dismissed, is concerned.

Miscellaneous petitions pending, if any, in this Criminal Petition shall stand closed.

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JUSTICE RAJA ELANGO

30.3.2016

AMD

THE HONOURABLE SRI JUSTICE RAJA ELANGO

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