

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Criminal Revision No.483 of 2017

1.

and CrI.M.P.No.4331 of 2017

1. M/s.Neptune Inflatables Ltd.,
(Company in Liquidation),
No.12, Bishop Wallers Avenue (East),
Mylapore, Chennai-600 004.
 2. Pradeep Ranganathan,
Ex.Managing Director.
 3. S.N.Natarajan,
Ex.Director
- Petitioners/Appellants/
Revision Petitioner

Vs.

Industrial Venture Capital Ltd.,
"Vairams", No.112, Thiyagaraya Road,
T.Nagar, Chennai-600 017.
Having its Regd.Office currently at
No.10, R Block, II Floor,
Prem Nagar Colony, South Boag Road,
T.Nagar, Chennai-600 017. Respondent/Respondent/
Respondent

Prayer:- This Criminal revision is filed under Section 397 & 401 of Cr.P.C., to set aside the order passed in CrI.M.P.No.3448 of 2017 in C.A.No.39 of 2017 dated 22.02.2017 on the file of the Principal Sessions Judge, City Civil Court, Chennai in so far as the order directing the 2nd and 3rd Revision Petitioners to pay Rs.5,98,740/- in 10% of the compensation imposed against the 1st Revision Petitioner for suspension of the compensation awarded in C.C.No.2594 of 2010 on the file of the Metropolitan Magistrate/Fast Track Court No.1, Saidapet, dated 24.01.2017.

For Petitioners : Mr.C.K.M.Appaji

For Respondent : No appearance

O R D E R

This Criminal Revision has been filed challenging the order dated 22.02.2017 in CrI.M.P.No.3448 of 2017 in C.A.No.39 of 2017 by the Principal Sessions Judge, City Civil Court, Chennai, directing the 2nd and 3rd Revision Petitioners jointly to deposit a sum of Rs.5,98,740/- being 10% of compensation as ordered by the Trial Court in C.C.No.2594 of 2004.

2.The petitioners are accused in a private complaint filed by the respondent under section 138 of N.I. Act. The Trial Court convicted the petitioners 2 and 3 (A2 and A3) and sentenced them to undergo six months simple imprisonment and A1 was directed to pay the cheque amount of Rs.59,87,400/- as compensation to the complainant. Challenging the above said conviction and sentence, the petitioners filled an appeal in C.A.No.39 of 2017 on the file of the Principal Sessions Judge, City Civil Court, Chennai and also filed an application to suspend the sentence. The learned Appellate Court after suspending the sentence of imprisonment of A2 and A3, directed A2 and A3 jointly deposit a sum of Rs.5,98,740/- being 10% of the compensation amount. Challenging the above condition, the present revision has been filed.

3.I have heard Mr.C.K.M.Appaji, learned counsel for the petitioner.

4.The learned counsel for the petitioner would submit that the compensation imposed by the Court below for suspending the sentence is onerous, especially, when the appeal is pending and he has valid points in the appeal. The learned counsel also relied upon a judgment of this Court in the case of C.Murugesan V. Prabakaran and another reported in (2011)CrI.L.J.4570 and another judgment of Hon'ble Supreme Court in the case of Dilip S.Dahanukar V. Kotak Mahindra Co.Ltd and another reported in (2007)6 SCC 528.

5.I have considered the submissions made by the learned counsel. The petitioner is convicted for an offence under section 138 of N.I. Act and pending appeal, the Court below suspended the sentence of A2 and A3 and directed them to pay only 10% of the compensation ordered by the Court below. The Hon'ble Supreme Court in Dilip S.Dahanukar V. Kotak Mahindra Co.Ltd and another reported in (2007)6 SCC 528 has already dealt as follows:

"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."

6.As per the judgment of the Hon'ble Supreme Court, the Appellate Court is entitled to put the appellant on terms while suspending the sentence. However, the Hon'ble Supreme Court has said that the amount should be reasonable. The other judgment relied upon by the learned counsel shows that, while suspending the sentence, the Court cannot order deposit of amount as a condition. In the instant case, the Appellate Court directed the petitioner to deposit only 10% of compensation ordered by the Trial Court, it is not unreasonable.

7.In the above circumstances, I do not find any irregularity or illegality in the orders passed by the Courts below and the revision is liable to be dismissed. Accordingly, the Criminal Revision is dismissed. Consequently, connected miscellaneous petition is also closed.

Sd/-

Asst.Registrar

/true copy/ सत्यमेव जयते

Sub Asst. Registrar

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To

1. The Principal Sessions Judge,
City Civil Court, Chennai.
2. The Metropolitan Magistrate,
fast Track Court -I,
Saidapet, Chennai-15.

3. The Public Prosecutor,
High Court, Madras

+lcc to Mr.C.K.M. Appaji, Advocate Sr. 22251

Criminal Revision No.483 of 2017
and Crl.M.P.No.4331 of 2017

CA(CO)
VR(26/4/2017)



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