

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

CRIMINAL REVISION CASE No.1712 of 2017

ORDER:

This Criminal Revision Case, under Sections 397 & 401 of the Code of Criminal Procedure, 1973, by the petitioner-appellant-accused is directed against the order, dated 21.06.2017, of the learned II Additional Sessions Judge, Parvatipuram, passed in CrI.MP.No.27 of 2017 in CrI.A.No.42 of 2017.

I have heard the submissions of *Sri Siva Sai Swaroop*, learned counsel for the petitioner and of the learned Public Prosecutor (AP) representing the 1st respondent-State, at the stage of admission. I have perused the material record.

By the order impugned in this revision, the learned Additional Sessions Judge, while suspending the sentence imposed against the petitioner-appellant by the trial Court and while enlarging him on bail, imposed a condition to deposit an amount of Rs.3,00,000/- within one month from the date of the said order and further held that on the failure of the petitioner to make the deposit the petitioner shall be taken into custody.

Learned counsel for the petitioner-accused would submit that the right of appeal is a statutory right and that the condition imposed is a onerous condition and that considering the financial position and the fair chances of success the petitioner got in the appeal, the onerous condition imposed may be relaxed. He would further submit that the petitioner is prepared to abide by any reasonable conditions that may be imposed by this Court while modifying the order impugned in the revision.

Having regard to the facts & submissions and the legal position in the decisions in *Dilip S. Dhanukar v. Kotak Mahindra Co.Ltd., and another*¹ and

¹ (2007) 6 SCC 528

Amarveer Singh v. State², this Court is of the considered view that in a case of this nature, the condition imposed by the Court below as a condition precedent for enlarging the petitioner on bail despite the fact that right of appeal is a constitutional statutory right needs modification.

In that view of the matter, the Criminal Revision Case is partly allowed and the order impugned is modified insofar as the condition directing the petitioner to deposit an amount of Rs.3,00,000/- and instead the petitioner is directed to deposit Rs.1,00,000/- [Rupees One Lakh only] to the credit of C.C.No.90 of 2010 on the file of the Court of the learned Judicial Magistrate of First Class, Salur, within four (04) weeks from today. It is made clear that on failure of the petitioner to make the deposit as directed supra, the Court below shall be at liberty to proceed in accordance with the procedure established by law. As and when the petitioner deposits the afore-said amount, the 2nd respondent-complainant is permitted to withdraw the same by following the procedure established by law.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE M. SEETHARAMA MURTI

27.06.2017
Vjl

² LAWS(RAJ)-2009-9-76