

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.7410 of 2017

ORDER:

This Criminal Petition is filed under Section 482 read with 439(1)(b) Cr.P.C. seeking modification of the order dated 01.08.2017 in CrI.M.P.No.454 of 2017 in Criminal Appeal No.264 of 2017 on the file of the Court of the IV Additional District and Sessions Judge, Nellore.

2. Heard the learned counsel for the petitioner.

3. A perusal of the record reveals that the petitioner faced the trial in C.C.No.405 of 2015 on the file of the Court of the Additional Judicial Magistrate of First Class, Kavali for the offence punishable under Section 138 read with 142 of the Negotiable Instruments Act. After full-fledged trial, the trial Court arrived at a conclusion that the petitioner was found guilty for the offence punishable under Section 138 read with 142 of the Negotiable Instruments Act and accordingly, convicted and sentenced her to undergo rigorous imprisonment for a period of one year and directed the petitioner to pay the cheque amount of Rs.4,47,500/- with simple interest at the rate of 9% per annum from the date of filing of the petition till the date of realization.

4. Feeling aggrieved by the orders of the trial Court, the petitioner preferred Criminal Appeal No.264 of 2017 on the file of the Court of the IV Additional District and Sessions Judge, Nellore. Along with the appeal, the petitioner filed CrI.M.P.No.454 of 2017 for suspension of the sentence. The appellate Court, after considering the material available on record, suspended the

sentence upto 04.09.2017, subject to deposit of 1/4th of the cheque amount.

5. The learned counsel for the petitioner submitted that the petitioner is not in a position to pay 1/4th of the cheque amount due to financial problems. The trial Court directed the petitioner to pay the cheque amount of Rs.4,47,500/- along with 9% interest from the date of filing of the petition till the date of realization. After taking into consideration the material available on record, the appellate Court directed the petitioner to pay 1/4th of the cheque amount only. Imposition of such a condition is fair and reasonable one. This Court shall not lightly interfere with the discretionary orders passed by the Courts below.

6. Viewed from any angle, I am of the considered view that the condition imposed by the appellate Court is not onerous one. Hence, there are no grounds much less valid grounds to interfere with the order of the appellate Court.

7. Accordingly, the Criminal Petition is dismissed.

T.SUNIL CHOWDARY, J

Date: 24.08.2017
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