

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.7437 of 2017

ORDER:

This criminal petition is filed by the petitioner-appellant, under Section 482 read with 389(1) of Cr.P.C., seeking to modify the order dated 03.8.2017 in CrI.M.P.No.651 of 2017 in Criminal Appeal No.269 of 2017 on the file of the Court of Special Judge for Trial of Cases under SCs & STs (PoA) Act-cum-VIII Additional District and Sessions Judge, West Godavari, Eluru.

2. Heard the learned counsel for the petitioner and perused the material available on record.

3. The record reveals that the petitioner faced trial in C.C. No.14 of 2016 on the file of the Court of Special Judicial Magistrate of First Class, Excise Court, Eluru, for the offence under Section 138 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 under Section 138 of N.I. Act, convicted and sentenced him to undergo Simple Imprisonment for six months and also to pay an amount of Rs.4.00 lakhs to the complainant towards compensation. Feeling aggrieved by the conviction and sentence, the petitioner preferred the appeal and filed CrI.M.P. No.651 of 2017 under Section 389(1) of Cr.P.C.. The appellate court suspended the sentence during pendency of appeal, on the condition of the petitioner depositing 25% of the compensation amount before the trial Court. Feeling aggrieved by the said condition, the present criminal petition is filed.

4. The learned counsel for the petitioner submitted that the order of the appellate court to the extent of directing the petitioner to deposit 25% of the compensation amount is not sustainable either on facts or in law. It is a settled principle of law that this Court shall not lightly interfere with the discretionary orders passed by the Courts below. It appears that the appellate court passed such an order in order to ensure the presence of the petitioner during the pendency of appeal. While suspending the sentence, the appellate Court can impose reasonable conditions, by exercising its discretionary power, in certain cases more particularly in the cases arose under Section 138 of N.I. Act. The trial Court awarded compensation amount of Rs.4,00,000/- whereas the appellate court directed the petitioner to deposit 25% of the compensation amount, which comes to Rs.1,00,000/-.

5. The appellate court, taking into consideration the cheque amount and other attending circumstances, directed the petitioner to deposit 25% of the compensation amount. The condition imposed by the appellate court is not an onerous one. Viewed from any angle, I am of the considered view that there is no illegality or irregularity in the order passed by the court below to interfere in this criminal petition. I see no reasons in the petition and it is liable to be dismissed.

6. Accordingly, the criminal petition is dismissed.

T.SUNIL CHOWDARY, J

August 24, 2017
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