

THE HON'BLE SRI JUSTICE T.SUNIL CHOWDARY

CRIMINAL PETITION No.8897 of 2017

ORDER:

This petition is filed under Section 439 (1)(b) Cr.P.C. seeking modification of the order dated 27.07.2017 in CrI.M.P.No.546 of 2017 in CrI.A.No.52 of 2017 on the file of the Court of the III Additional District Judge, Vizianagaram.

2. Heard the learned counsel for the petitioner.

3. A perusal of the record reveals that the petitioner-accused faced trial in C.C.No.261 of 2016 on the file of the Judicial First Class Magistrate, Special Mobile Court, Vizianagaram, for the offence punishable 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 punishable under Section 138 of the Negotiable Instruments Act and accordingly, convicted and sentenced him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.6,00,000/- and in default of payment of fine amount, the petitioner shall undergo simple imprisonment for a period of six months.

4. Feeling aggrieved by the conviction and sentence, the petitioner preferred Criminal Appeal No.52 of 2017 on the file of the Court of the III Additional District Judge, Vizianagaram. Along with the appeal, the petitioner filed CrI.M.P.No.546 of 2017 seeking suspension of the sentence. The appellate Court allowed the petition suspending the operation of the sentence till disposal of the appeal on condition of the petitioner depositing 1/5th of the

cheque amount on or before 28.08.2017. Seeking modification of the said condition, the present petition is filed.

5. In the instant case, the appellate court directed the petitioner to deposit 1/5th of the cheque amount of Rs.5,00,000/-. The appellate Court taking into consideration the cheque amount, directed the petitioner to deposit 1/5th of the cheque amount. It is a settled principle of law that this Court shall not lightly interfere with the discretionary orders passed by the Court below.

6. Having regard to the facts and circumstances of the case, this Court is of the considered view that directing the petitioner to deposit 1/5th of the cheque amount on or before 28.08.2017 is not an onerous one. There is no illegality or irregularity in the order passed by the appellate Court; hence, the petition is liable to be dismissed.

7. Accordingly, the Criminal Petition is dismissed.

Date: 03.10.2017
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T.SUNIL CHOWDARY, J