

HON'BLE SRI JUSTICE A. SHANKAR NARAYANA

Criminal Revision Case No.2211 of 2017

JUDGMENT:

Heard Sri T. Poorna Chander Rao, learned counsel for the revision petitioner.

2. The present Criminal Revision Case is filed by the revision petitioner/appellant/accused questioning the Interlocutory Order in Criminal M.P.No.1257 of 2016 in Criminal Appeal No.684 of 2016 on the file of the Special Judge for Trial of Offences under S.Cs. & S.Ts. (PoA) Act-cum-VI Additional Metropolitan Sessions Judge, Secunderabad.

3. By the aforesaid order, dated 15.09.2016, the learned Special Judge refused to suspend payment of Rs.2,42,000/- paid by the revision petitioner under Section 357 of the Criminal Procedure Code, 1973 (for short, 'Cr.P.C.') and dismissed the application. Aggrieved by the same, the present Criminal Revision Case is filed.

4. The learned XVIII-Additional Chief Metropolitan Magistrate, Hyderabad, by his order, dated 29.06.2016, in C.C. No.558 of 2015, convicted the revision petitioner under Section 255 (2) of Cr.P.C. for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, and sentenced him to suffer simple imprisonment for a period of one year and to pay fine of Rs.5,000/- (Rupees Five thousand only) with default sentence of simple

imprisonment for one month. Besides the same, the learned Magistrate has also awarded compensation of Rs.2,42,000/- under Section 357 (3) of Cr.P.C. granting one month's time from the date of passing sentence order.

5. When the revision petitioner preferred the aforesaid Criminal Appeal, he made an application (Crl.M.P.No.1257 of 2016) under Section 357 (2) of Cr.P.C. requesting to suspend the payment of compensation amount. The learned lower Appellate Judge, in fact, granted suspension, but, however directed him to deposit one-fourth of the compensation amount as awarded by the trial Court within 20 days from the date of order failing which the said order becomes *functus officio*.

6. The said condition of depositing one-fourth of compensation amount is questioned in the Criminal Revision Case. In fact, initial notice was ordered on 22.02.2017. Thereafter, the delay petition was also ordered on 31.7.2017. However, there was no representation for the revision petitioner on 22.9.2017 and 3.10.2017 and again on 1.11.2017. In fact, the condition imposed by the lower Appellate Court cannot be faulted in view of the law declared by the Hon'ble Supreme Court in **Dilip S. Dahanukar v. Kotak Mahindra Co. Ltd. and Another**¹.

¹ (2007) 6 SCC 528

7. Therefore, there is no merit in the Criminal Revision Case, and, accordingly, the same is dismissed.

As a sequel thereto, Miscellaneous Petitions, if any, pending in the Criminal Revision Case, shall stand closed.

A. SHANKAR NARAYANA

Dt.15.11.2017

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