

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.10294 OF 2017

ORDER

This Criminal Petition is filed questioning the order dated 26.09.2017 passed in CrI.M.P.No.193 of 2017 in Criminal Appeal No.1021 of 2017 by the VIII Additional Sessions Judge, Ranga Reddy District.

It is the case of the petitioner/accused that he is found guilty of the offence under Section 138 of the Negotiable Instruments Act and aggrieved by the conviction and sentence passed by the X Special Magistrate, L.B.Nagar in C.C.No.114 of 2016, dated 28.08.2017, he preferred an appeal before the District Court in Criminal Appeal No.1021 of 2017 along with an application to suspend the order on payment of compensation awarded by the Court below and the Court below passed the impugned order suspending the operation of sentence passed by the trial Court till the disposal of the appeal on the petitioner depositing Rs.2,00,000/- of the compensation amount within 15 days from the date of order. This order is now under challenge on the ground that the Appellate Court directed to deposit 1/3rd of the compensation amount is excessive and it is contrary to the principles laid down in ***Dilip S. Dahanukar v. Kotak Mahindra Company Limited and another***¹.

During hearing, Sri P.N.Murthy, learned counsel for the petitioner, reiterated the petition averments.

¹ (2007)6 SCC 528

In view of the specific contention urged before this Court, it is relevant to extract the guidelines issued in **Dilip's** case as under:

- i) "in a case of this nature, sub-section (2) of Section 357 of the Code of Criminal Procedure would be attracted even when the appellant was directed to pay compensation;
- ii) the appellate court, however, while suspending the sentence, was entitled to put the appellant on terms. However, no such term could be put as a condition precedent for entertaining the appeal which is a constitutional and statutory right;
- iii) the amount of compensation must be a reasonable sum;
- iv) the court, while fixing such amount, must have regard to all relevant factors including the one referred to in sub-section(5) of Section 357 of the Code of Criminal Procedure;
- v) no unreasonable amount of compensation can be directed to be paid."

From a perusal of the guidelines issued by the Supreme Court, it is evident that the compensation fixed by the Court must be a reasonable sum and direction should be given to deposit reasonable amount out of the compensation amount directed to be paid.

What is reasonable amount and unreasonable amount depends upon the facts of each case. The amount covered by dishonoured cheque is Rs.6,00,000/- and the Court is competent to award compensation double the amount covered by the dishonoured cheque as per the provisions of the Negotiable Instruments Act, but the Court below took lenient view and awarded equivalent amount covered by the dishonoured cheque and the appellate Court directed the petitioner to deposit Rs.2,00,000/- within 15 days from the date of order while

suspending the conviction and sentence imposed against him. Having found that it is just and reasonable amount, no straight jacket formula can be laid down to decide whether the amount directed to be deposited by the Court below is just and reasonable or not but depending on the facts and circumstances of the case, the Court has to decide. In the present case, the cheque amount is Rs.6,00,000/-. Though the learned Magistrate is competent to award as compensation, double the amount covered by the cheque amount, he awarded meagre amount equivalent to the cheque amount. Therefore, the direction to deposit 1/3rd of the cheque amount is just and reasonable. Therefore, I find no ground to quash the order having found no illegality in the order passed by the Appellate Court in CrI.M.P.No.193 of 2017 and thereby the criminal petition is liable to be dismissed at the stage of admission.

In the result, the Criminal Petition is dismissed.

Miscellaneous petitions pending, if any, shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 09.11.2017
ssp