

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.10229 OF 2017

ORDER:

This criminal petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to modify the condition "to deposit 1/4th (25%) of the compensation amount within 30 days before the lower Court" imposed in CrI.M.P.No.523 of 2017 in CrI.A.No.144 of 2017 dated 25.09.2017 by the I Additional Sessions Judge, Karimnagar.

The petitioner is the accused in C.C.No.13 of 2008 on the file of Judicial Magistrate of First Class, Peddapalli, registered for the offence punishable under Section 138 of Negotiable Instruments Act.

The trial Court found the petitioner/accused guilty for the offence punishable under Section 138 of Negotiable Instruments Act, convicted and sentenced to undergo simple imprisonment for a period of one year and to pay a sum of Rs.30,00,000/- towards compensation under Section 357 (3) of Cr.P.C. to the complainant within three months, failing with he shall undergo simple imprisonment for a period of one year.

Aggrieved by the order passed by the trial Court, petitioner/accused preferred Criminal Appeal No.144 of 2017 and filed CrI.M.P.No.523 of 2017 to suspend the order for payment of compensation. The I Additional Sessions Judge, Karimnagar passed the impugned order suspending the order passed by the trial Court subject to deposit of 1/4th (25%) of the compensation amount within 30 days before the trail Court.

Learned counsel for the petitioner contended that in the order of this Court passed in Criminal Petition No.5163 of 2015 dated 24.08.2015 this Court exercised power and reduced compensation

amount considerably based on the principle laid down in “**Dilip S.Dahanukar v. Kotak Mahindra Co.Ltd**¹” and requested this Court to modify the order.

The calendar and judgment passed by the trial Court is the subject matter of appeal and the appellate Court passed the order, which is now under challenge on the sole ground that the amount of compensation directed to be deposited is excessive and contrary to the law declared by the Apex Court in “**Dilip S.Dahanukar v. Kotak Mahindra Co.Ltd**” (referred supra).

Learned counsel for the petitioner would draw the attention of this Court to the judgment rendered by the Apex Court in “**Dilip S.Dahanukar v. Kotak Mahindra Co.Ltd**” (referred supra). In paragraph No.72 of the judgment, the Apex Court laid down the following guidelines.

- “i) In a case of this nature, Sub-section (2) of Section 357 of the Code of Criminal Procedure would be attracted even when 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 357 of the Code of Criminal Procedure;
- v) No unreasonable amount of compensation can be directed to be paid.”

In view of the law declared by the Apex Court in the aforesaid judgment, the Court can put a condition for payment of reasonable amount as compensation while suspending the order passed by the

¹ (2007) 6 SCC 528

trial Court. Here, in the present case, the appellate Court directed the petitioner to deposit 1/4th of the amount ordered by the trial Court, it is just and reasonable. Therefore, I find no ground to modify the order passed by the trial Court by exercising power under Section 482 of Cr.P.C. Consequently, the petition is liable to be dismissed.

In the result, the criminal petition is dismissed. No costs.

However, at this stage, learned counsel for the petitioner requested this Court to extend the time for payment of compensation as directed by the trial Court. Keeping in view of the pendency of the petition before this Court, time is extended for four (4) weeks from today for payment of 1/4th (25%) of the compensation.

With the above directions, the petition is disposed of. No costs.

Consequently, miscellaneous petitions pending, if any, shall also stand dismissed.

JUSTICE M. SATYANARAYANA MURTHY

03.11.2017
Ksp