

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.3068 OF 2018

ORDER:

This Criminal Petition, under Section 439(1)(b) of Cr.P.C., is filed by the petitioner/accused, for modification of the condition imposed by the learned Metropolitan Sessions Judge, Hyderabad (for short, 'the Appellate Court'), in Crl.M.P. No.292 of 2018 in Criminal Appeal No.65 of 2018, while suspending the sentence of imprisonment imposed, in C.C. No.139 of 2016 (old C.C. No.402 of 2016), by the learned XVI Special Magistrate, Hyderabad (for short, 'the trial Court').

2. Heard the learned counsel for the petitioner, learned Public Prosecutor (T.G.) appearing for the respondent-State, and perused the record.

3. The petitioner was found guilty, for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, by the trial Court and, aggrieved thereby, the petitioner preferred Criminal Appeal No.65 of 2018 along with Crl.M.P. No.292 of 2018 seeking suspension of the substantive sentence, during pendency of the Appeal. The Appellate Court, while suspending the substantive sentence imposed by the trial Court, directed the petitioner to deposit 50% of the cheque amount to the credit of the C.C. No.139 of 2016 before the trial Court on or before 05.03.2018.

4. Aggrieved by the said order, the petitioner filed this Criminal Petition contending that the petitioner is a labourer, not in a position to comply with the direction issued by the Appellate Court, and requested to reduce the percentage amount to be deposited before the trial Court.

5. Taking into consideration the nature of the offence, and the fact that the petitioner is a labourer, this Court opines that this is a fit case for modification of the said condition. Accordingly, the Criminal Petition is allowed and the petitioner is directed to deposit 35% of the cheque amount, instead of 50% as ordered by the Appellate Court, within a period of two (2) weeks from today. Except this modification, the rest of the order shall remain intact.

As a sequel, the miscellaneous applications, if any pending, shall stand closed.

Date: 19.03.2018.
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M. SATYANARAYANA MURTHY, J



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