THE HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.4360 OF 2018

ORDER:

This petition is filed under Section 482 of the Code of Criminal Procedure by the petitioner/appellant/accused seeking to quash the order, dated 19.03.2018 in Crl.M.P.No.877 of 2018 in Criminal Appeal No.189 of 2018 passed by the Metropolitan Sessions Judge, Hyderabad, insofar as directing the petitioner to deposit 10% of the cheque amount.

Heard the learned counsel for the petitioner and this Court is of the considered view that this petition can be disposed of at the admission stage without necessity of affording notice to the second respondent.

The submission of the learned counsel for the petitioner is that the trial Court in C.C.No.360 of 2015, the Judgment of which is under Appeal, only directed the petitioner/accused to suffer rigorous imprisonment for one year and pay fine of Rs.5,000/- and in default, to suffer simple imprisonment for three months and the said Court did not award any compensation. In that view, while granting suspension of sentence of imprisonment and fine amount imposed by the trial Court, the lower appellate Court ought not to have imposed the onerous condition of depositing 10% of the cheque amount. Incidentally, he would submit that the cheque amount involved in this case is Rs.25,00,000/-. This Court finds force in the submission of the learned counsel for the petitioner.

The petitioner/accused preferred an Appeal against the conviction and sentence directing to suffer rigorous imprisonment for one year and pay fine of Rs.5,000/- and in default, to suffer simple imprisonment for three months. The trial Court did not impose any compensation to be payable by the petitioner. In such an event, even assuming that the Appeal were to be dismissed, at the worst, the petitioner has to undergo rigorous imprisonment for one year and pay fine of Rs.5,000/- only. There is no legality in directing

the petitioner/accused to deposit 10% of the cheque amount when the trial Court did not impose any compensation against the petitioner/accused. Therefore, this petition is allowed and the impugned order, dated 19.03.2018 passed by the Metropolitan Sessions Judge, Hyderabad, in Crl.M.P.No.877 of 2018 in Criminal Appeal No.189 of 2018, insofar as directing the petitioner to deposit 10% of the cheque amount is set aside.

The criminal petition is accordingly allowed. Consequently, miscellaneous petitions, if any pending, shall stand disposed of.

U.DURGA PRASAD RAO, J

06.04.2018
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