

HON'BLE SRI JUSTICE U.DURGA PRASAD RAO

CRIMINAL PETITION No.3996 of 2018

ORDER:

This petition is filed under Section 482 Cr.P.C by the petitioner/appellant aggrieved by the order dated 20.3.2018 in CrI.M.P.No. 895 of 2018 in CrI.a.No. 192 of 2018 passed by the learned Metropolitan Sessions Judge, Hyderabad, directing the petitioner to deposit 10% of the cheque amount while granting suspension of sentence of imprisonment in CC No. 380 of 2017 imposed by the trial Court.

Heard learned counsel for petitioner/appellant.

The submission of learned counsel for petitioner/appellant is that the trial Court while convicting the petitioner having found him already declared as insolvent only sentenced him to undergo Simple Imprisonment for a period of six months without imposing any fine or compensation against him. In that view of the matter, while passing an order in CrI.M.P.No. 895 of 2018, the appellate Court ought to have suspended the sentence of imprisonment without imposing any onerous conditions. However, the learned Metropolitan Sessions Judge, Hyderabad, directed him to deposit 10% of the cheque amount, which comes to Rs. 78,750/- (Cheque amount is Rs. 7, 87,500/-), which is quite onerous for a insolvent like him. He, thus, prayed to modify the said condition.

It is seen, in the impugned order learned Metropolitan Sessions Judge, Hyderabad, relied upon the judgment in CrI.P.No. 918 of 2018 of this High Court. It can be said that no ratio is laid down in the said case while ordering

the petitioner therein to deposit 10% of the cheque amount. Therefore, the said judgment cannot be taken as beacon for directing the present petitioner to deposit 10% of the cheque amount particularly when he was already declared as insolvent. Therefore, the impugned order dated 20.3.2018 in Crl.M.P.No. 192 of 2018 in Crl.A.No. 192 of 2018 on the file of Metropolitan Sessions Judge, Hyderabad, is set aside and suspension of sentence of imprisonment and bail are granted to the petitioner, pending Criminal Appeal No. 192 of 2018, on his executing a personal bond for Rs. 20,000/- (Rupees Twenty Thousand Only) with two sureties each for likesum to the satisfaction of the trial Court.

Accordingly, the Criminal Petition is disposed of. As a sequel there to, miscellaneous applications, pending if any, shall stand closed.

Date: 18.04.2018
KA
Note: Furnish copy by tomorrow.

U.DURGA PRASAD RAO, J