

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

Criminal Petition No.5690 of 2018

ORDER :

Heard the learned counsel for the petitioner vis-à-vis the 1st respondent-complainant in the cheque bounce case C.C.No.40 of 2017 on the file of the III Spl.Magistrate, Hastinapuram at L.B.Nagar, Ranga Reddy district.

The petitioner/accused, against the conviction judgment, dt.29.01.2018 in cheque bounce case C.C.No.40 of 2017, filed appeal vide CrI.A.No.178 of 2018 on the file of the XIII Addl.Sessions Judge-cum-Addl.Metropolitan Sessions Judge, Cyberabad at L.B.Nagar, Ranga Reddy district, and pending the appeal an application vide CrI.M.P.No.122 of 2018 to suspend the sentence is filed and the learned appellate Judge by impugned order, dt.28.02.2018, while suspending the sentence of imprisonment, so far as the suspension of the fine/compensation concerned, ordered to pay or deposit 25% of the amount within two months therefrom. It is impugning the same, the present petition is filed.

The contention of the counsel for the petitioner/accused is that she has no means and she is bankrupt practically and her debtor I.P.(Insolvency Petition) for adjudication is pending showing no properties in its schedule much less to appoint interim receiver.

Whereas, the learned counsel for the complainant/respondent submits that she got means secreted and there is nothing to interfere with the order of the lower Court.

No doubt as pointed out by the learned counsel for the petitioner/accused from the expression of the Apex Court in Dilip S.

Dahanukar V. Kotak Mahindra Co. Ltd.¹, it is held that pending appeal while suspending sentence/ fine, the Court can impose reasonable terms to pay on cost, there is out of Rs.15,00,000/- (Fifteen lakhs only), ordered to pay or deposit Rs.1,00,000/- (Rupees one lakh only) even to exercise the same here, it is not the case that she is ready to pay with some modification of the orders of the lower Court but for showing no means and she is practically bankrupt.

Having regard to the above, the Criminal Petition is disposed of, directing the lower appellate Court to decide the appeal within two months from today at any costs on own merits. It is also made clear that even parties fails to cooperate, the appellate Court can, by virtue of this order, also decide the appeal on merits vide the expression of the Apex Court in **Bani Singh Vs. State of Uttar Pradesh**²

Date:25.06.2018
Vvr

Dr. B. SIVA SANKARA RAO, J

¹ (2007)6 SCC 528)

² 1996 AIR SC 2439