

HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

Crl.P. No.6334 OF 2018

ORDER:

This criminal petition is filed under Section 482 Cr.P.C. questioning the direction issued by the Additional Sessions Judge, Tirupathi by order dated 07.05.2018 in Crl.M.P.No.174 of 2018 in Crl.A.No.102 of 2018, where the Sessions Judge while suspending the substantive sentence of imprisonment on payment of compensation by exercising power under Section 389(1) Cr.P.C. directed the petitioner to deposit Rs.1,50,000/-on or before 28.05.2018.

Aggrieved by the said order, the petitioner filed the present petition on the ground that imposing such condition is virtually amount to denial of the relief in a petition filed under Section 389(1) Cr.P.C. and the condition imposed by the lower appellate Court is harsh and prayed to set aside the same.

Admittedly, the petitioner found guilty for the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced to undergo imprisonment for one year and to pay cheque amount of Rs.4,00,000/- as compensation to the complainant under Section 357(3) Cr.P.C. with default sentence of six months. When the petitioner filed petition under Section 389(1) Cr.P.C. the lower appellate Court suspended the execution of sentence of imprisonment imposed against the petitioner by the II Additional Judicial Magistrate of I Class, Tirupati in C.C.No.113 of 2018. Thus, it is evident that the compensation awarded is only under Section 357(3) Cr.P.C., but not under Section 357(1) Cr.P.C. In view of the judgment of the Apex Court in **Dilip S.Dahanukar v**

Kotak Mahindra Co. Ltd. And another¹ the Court can direct the petitioner to deposit reasonable amount while suspending sentence in an appeal. Therefore, applying the principle in the above judgment, the order passed by the lower appellate Court is modified to the extent that the deposit amount is reduced to Rs.1,00,000/- from Rs.1,50,000/- within 15 days from today.

With the above direction, the criminal petition is disposed of.

Pending miscellaneous petitions in the petition, if any, shall stand closed.

20.06.2018
kvrn

M.SATYANARAYANA MURTHY,J



¹ (2007) 6 SCC 528