

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION No.6310 of 2018

ORDER:

This Criminal Petition, under Section 482 Cr.P.C., is filed questioning the Order dt.27.03.2018 in CrI.M.P.No.954 of 2018 in CrI.A.No.214 of 2018 passed by the Metropolitan Sessions Judge, Hyderabad, whereby the Sessions Court in a petition filed under Section 389(1) Cr.P.C. directed the petitioners to deposit 10% of the cheque amount on or before 27.04.2018 for suspension of sentence.

As the petitioner was found guilty for the offence punishable under Section 138 of NI Act, the trial Court sentenced the accused to undergo Simple Imprisonment for a period of two years and to pay fine of Rs.1,98,60,000/- with default sentence. It also ordered to pay an amount of Rs.1,98,50,000/- as compensation to the complainant, out of Rs.1,98,60,000/- and the authorized officer is entitled to receive it under Section 357(3) Cr.P.C.

Aggrieved by the conviction and sentence under the calendar and judgment, the petitioners preferred an appeal before the District Court along with the application to suspend the substantive sentence of imprisonment and payment of compensation.

As seen from the calendar and judgment in C.C.No.255 of 2015, the trial Court while imposing substantive sentence of imprisonment, imposed fine of Rs.1,98,60,000/- and also ordered to pay an amount of Rs.1,98,50,000/- out of Rs.1,98,60,000/- towards

compensation to respondent No.2 herein. The petitioners, instead of paying the fine amount, filed the appeal and sought for suspension of substantive sentence of imprisonment and fine.

The main contention of the petitioners is that imposing of the condition to deposit 10% of the cheque amount is onerous condition and it amounts to virtually denying the relief in the petition and prayed to quash the order.

The total amount allegedly due to Respondent No.2 by the petitioners herein is more than Rs.1,98,60,000/- and the amount ordered to be deposited is only 10% of the amount. The Apex Court in *Dilip S. Dahanukar v. Kotak Mahindra Co. Ltd., and another*¹ held that when the compensation is ordered to be paid under Section 359(3), the Court can impose reasonable condition of depositing the amount. In the latter judgment in *Satyendra Kumar Mehra v. The State of Jharkhand*², the appellant, who is one of the accused in the case of *Lalu Prasad @Lalu Prasad Yadav*, aggrieved by the order to pay a fine of Rs.25,000/- under each head as part of sentence preferred an appeal, but in the appeal the High Court of Jharkhand directed the appellant to deposit the fine imposed by the trial court. Aggrieved by the order, the petitioners approached the Apex Court raising identical grounds and placed reliance on the judgment in *Dilip S Dahanukar* case referred supra, but the Apex Court based on various judgments of Apex Court in *K.C. Sareen v. C.B.I. Chandigarh*³ and *Hari Singh v. Sukhbir Singh* and

¹ (2007) 6 SCC 528

² 2018 (5) Scale 109

³ (2001) 6 SCC 584

Ors.,⁴ upheld the order of the High Court holding that the Judgment in Dilip S Dahanukar would fall within clause (3) of Section 357 Cr.P.C.

Even assuming that the case would fall under Section 357(3) Cr.P.C. and applying the principles laid down in the above two judgments, I find no illegality in the Order passed by the Sessions Judge in CrI.M.P.No.954 of 2018 in CrI.A.No.214 of 2018 dt. 27.03.2018. Consequently, the Order dt.27.03.2018 passed by the Metropolitan Sessions Judge, Hyderabad, is upheld. But, at the end, the learned counsel for the petitioners requested this Court to extend time for payment of the amount.

In view of the request made by the learned counsel for the petitioners, time to deposit the amount as ordered by the Metropolitan Sessions Judge, Hyderabad, is extended for a period of 15 days from 27.04.2018.

In the result, this Criminal Petition is disposed of extending time to deposit the amount as ordered by the Metropolitan Sessions Court, Hyderabad, in CrI.M.P.No.954 of 2018 in CrI.Appeal No.214 of 2018.

Miscellaneous Petition, if any pending, in this case, shall stand dismissed.

M. SATYANARAYANA MURTHY, J

Date: 19-06-2018
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⁴ (1998) 4 SCC 551



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