

HON' BLE SRI JUSTICE GUDISEVA SHYAM PRASAD

CrI.R.C. No. 3401 of 2018

JUDGMENT:-

This Criminal Revision Case arises out of the order dated 30.11.2018 in CrI.A.M.P.No. 944 of 2018 in CrI.A.No. 224 of 2018 passed by VI Additional District and Sessions Judge, Kadapa.

The petitioner has filed a petition under Section 389(1) Cr.P.C. seeking for suspension of execution of sentence before II Additional Judicial Magistrate of I Class, Kadapa in C.C.No. 423 of 2016 pending disposal of the appeal. The petitioner was convicted for the offence under Section 138 of Negotiable Instruments Act and sentenced to undergo simple imprisonment for six months and directed to pay the cheque amount of Rs.8,50,000/- towards compensation. Being aggrieved by the impugned order passed by the learned Magistrate, the petitioner has preferred an appeal before VI Additional District and Sessions Judge, Kadapa and filed the present application under Section 389(1) Cr.P.C. seeking for suspension of execution of sentence. The learned Magistrate has suspended the sentence of imprisonment subject to depositing of 1/5th or 20% from the compensation amount before the trial Court on or before 14.12.2018 on the same terms and conditions imposed by the trial Court. The

petitioner, being aggrieved by the impugned order, has preferred the present Revision Case seeking for reducing the compensation amount from 20% to 5% as he has preferred Criminal Appeal.

At the outset, the order passed by the learned Sessions Judge in a petition under Section 389(1) Cr.P.C. is an interlocutory order. A revision case does not lie against an interlocutory order passed by the trial Court in view of the provision under Section 397(2) Cr.P.C.

In view of the facts and circumstances of the case, the order passed by the learned Sessions Judge does not suffer from any infirmity or illegality, however since the petitioner has approached this Court and sought for relaxation of condition, this Court is not inclined to relax the condition imposed by the trial Court, but extend the time for payment of 20% of the compensation before the trial Court within a period of one month i.e. by 14.01.2019.

With the above observations, the Criminal Revision Case is disposed of.

As a sequel, Miscellaneous Petitions, if any pending, shall stand disposed of as infructuous.

GUDISEVA SHYAM PRASAD,J

13.12.2018

Note:- Furnish copy in two days

b/o

bcj