

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2019

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.11187 of 2019

&

Crl.M.P.No.5733 of 2019

S.Thanigasalam

... Petitioner

.Vs.

M/s.Shree Gokulam Chit & Finance Com(P) Ltd.,
Rep.by its Authorized Agent and Legal Clerk,
G.Mithunkumar,
S/o.Gunasekaran,
No.5/12, Chetty Street,
Poonamallee, Chennai-56.

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to set aside the order in Crl.M.P.No.1415 of 2019, dated 20.03.2019, passed by the learned Principal District and Sessions Judge at Thiruvallur as far as the payment of deposit of 20% of the compensation amount alone is considered.

For Petitioner : Mr.S.Namo Narayanan

O R D E R

This petition has been filed challenging the order passed by the Court below directing the petitioner to deposit 20% of the compensation that was granted by the trial Court while passing the judgment of the conviction and sentence against the petitioner for an offence under Section 138 of the Negotiable Instruments Act.

2. Heard the learned counsel for the petitioner and perused the materials placed on record.

3. Admittedly, the petitioner was convicted for an offence under Section 138 of the Negotiable Instruments Act and was sentenced to undergo simple imprisonment for 24 months and was also directed to pay the compensation of Rs.14,02,000/-, within four months and in default to undergo further period of four months simple imprisonment. This judgment was challenged by way of an appeal before the learned Principal and Sessions Judge, Tiruvallur in C.A.No.39 of 2019. Along with the appeal, a petition was filed seeking for suspension of sentence.

4. The appellate Court on consideration of the facts and circumstances of the case, had allowed the petition by imposing certain conditions and one such condition was that a petitioner was directed to deposit 20% of the amount granted as compensation by the trial Court. This Court is of the considered view that there is no ground to interfere with the condition imposed by the Appellate Court since by virtue of the amendment to Section 148 of the Negotiable Instruments Act by Amendment Act No.20 of 2018, the Appellate Court is left with no other discretion while directing for deposit of the compensation amount which shall not be less than 20% of the amount of compensation/fine imposed by the trial Court.

5. In a recent judgment of the Hon'ble Supreme Court in *Surender Singh Deswal .Vs. Virender Gandhi* made in C.A.Nos.917-944 of 2019 dated 29.05.2019, the Hon'ble Supreme Court has categorically held that as per the amended Section 148 of the Negotiable Instruments Act, the accused/appellant has to deposit the amount of compensation/fine, which shall not be less than 20% , within a period of 60 days and which can be further extended for a further period of 30 days as may be directed by the Court on sufficient cause being shown by the appellants. The Hon'ble Supreme Court has also made it clear that the amendment provision will have a retrospective effect and will have application in all pending cases.

6. In view of the above judgment of the Hon'ble Supreme Court, there is absolutely no scope for this Court to interfere with the condition imposed by the Appellate Court while suspending the sentence.

In the result, this Criminal Original Petition is dismissed, and the petitioner is directed to deposit 20% of the compensation amount ordered by the trial Court within a period of two weeks from the date of receipt of a copy of this order. The other conditions imposed by the Appellate Court shall stand as it is. If the petitioner fails to deposit the amount, the suspension of sentence granted shall stand cancelled

automatically, and the trial Court is directed to issue an NBW and secure the petitioner and confine him to the Prison to undergo the sentence. Consequently, the connected miscellaneous petition is dismissed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

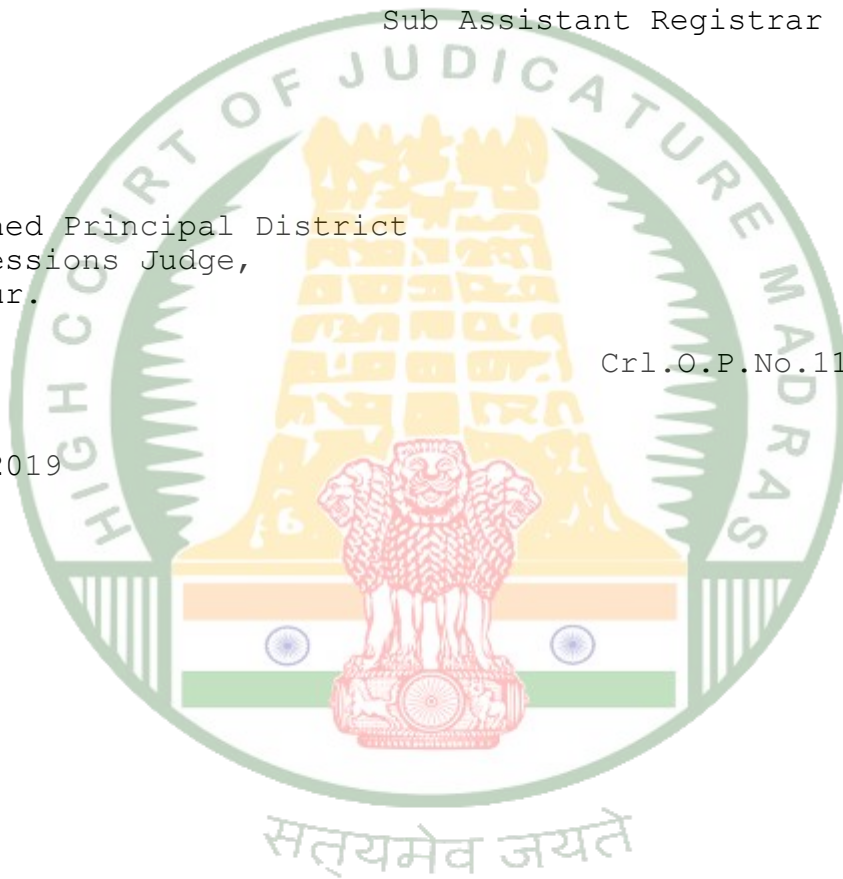
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To

The learned Principal District
and Sessions Judge,
Thiruvallur.

Crl.O.P.No.11187 of 2019

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nr 27/06/2019



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