

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2019

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.OP.No.13165 of 2019
and
Crl.M.P.No.6680 of 2019

A.Ganesan

...Petitioner

Vs.

Thirupathy

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to Modify the order, directing the Petitioner/Accused to deposit Rs.1,00,000/- before the Trial Court towards compensation amount within one month, passed in Crl.M.P.No.1951/2019 in Crl.Appl.No.17/2019, dated 27.04.2019, pending on the file of the Learned Principal Sessions Judge of Kancheepuram District at Chengulpet.

For Petitioner : Mr.B.Balavijayan

ORDER

This petition has been filed seeking to modify the order passed by the Court below which imposed condition to the petitioner to deposit a sum of Rs.1,00,000/-, while considering the application filed by the petitioner for suspension of sentence.

2.The petitioner faced Trial for an offence under Sections 138 and 142 of the Negotiable Instruments Act, and he was convicted and was sentenced to undergo two years Rigorous imprisonment. Further he was directed to pay the cheque amount of Rs.5,00,000/- with subsequent interest at the rate of 9% from the date of filing of the petition towards compensation under section 357(3) Cr.P.C. within a period of one month, and in default of payment to undergo three months Rigorous Imprisonment.

3.Subsequent to the judgment passed by the Trial Court, the petitioner was imprisoned to undergo the sentence. The petitioner moved a petition for suspension of sentence before

the Appellate Court and the Appellate Court allowed the petition by imposing certain conditions. The petitioner is aggrieved by the condition wherein he was directed to deposit the compensation amount of Rs.1,00,000/-.

4.The learned counsel for the petitioner submitted that the Court below did not take into consideration the fact that the petitioner suffered imprisonment for nearly ten months. The learned counsel further submitted that the amount which has been directed to be deposited was a portion of the compensation that was ordered by the Trial Court and the Appellate Court ought not to have imposed such a condition, since the grant of compensation itself is a subject matter of appeal. The learned counsel further submitted that the petitioner does not have the financial wherewithal to deposit the amount as a condition for suspension of sentence.

5.This Court has carefully considered the submissions made by the learned counsel for the petitioner and also the entire materials placed on record.

6.This Court is of the considered view that the Court below ought to have taken into consideration the fact that the petitioner suffered imprisonment for nearly ten months after the judgment was passed by the Trial Court. By taking this into consideration, the Court below ought to have fixed the amount to be deposited by the petitioner. This discretion is given to the Appellate Court even as per the amended provisions under Section 142 of the Negotiable Instruments Act. In view of the above, the condition imposed by the Court below is modified and the petitioner is directed to deposit a sum of Rs.50,000/- within a period of one month from the date of receipt of a copy of this order. To that extent, the condition imposed by the Court below stands modified. The other conditions imposed by the Court below shall stand as it is.

7.Accordingly, this Criminal Original Petition is disposed of. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-II)

//True copy//

Sub Assistant Registrar

jas/vs

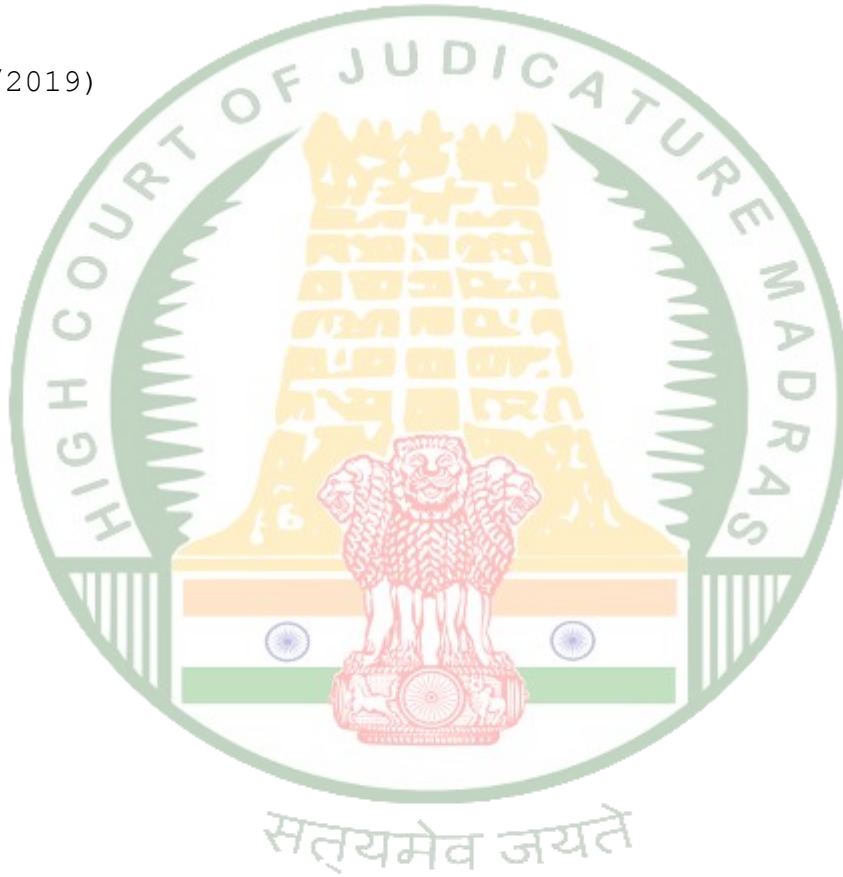
To

The Principal Sessions Judge,
Kancheepuram District,
Chengulpet.

+1cc to Mr.B.Balavijayan, Advocate SR.No.44876

CRL.OP.No.13165 of 2019
and
Crl.M.P.No.6680 of 2019

PM (CO)
GMY (06/06/2019)



WEB COPY