

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.06.2019

CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

CrI.O.P.No.14648 of 2019

1. M/s. Emmaus Institute for development,
Represented by its Managing Director,
(w) B5-F1- Vijayanagar Colony,
Hyderabad-57 (A.P).
2. T.J.P.S. Vardhan,
M/s.Emmaus Institute for development,
Society for Integrated development in Urban and
Rural area (siddur)
(w) B5-F1- Vijayanagar Colony,
Hyderabad-57 (A.P).
3. Mrs.T.Nandhavardhan,
M/s.Emmaus Institute for development,
Society for Integrated development in Urban and
Rural area (siddur)
(w) B5-F1- Vijayanagar Colony,
Hyderabad-57 (A.P). .. Petitioners / Petitioners /
Petitioners / Appellants

Dr.R.Rangarajan,
Chairman,
M/s.Vel tech hitech Dr.Rangarajan Dr.Sakunthala
Engineering College repto by his power of attorney agent
Mr.P.Sasikumar,
No.42 & 60, Avadiveltech road,
Chennai-62. .. Respondent / Respondent /
Respondent / Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the order dated 19.03.2019 in CrI.M.P.No.432 of 2019 in CrI.M.P.No.6650 of 2018 in C.A.No.212 of 2018 on the file of Learned 2nd Additional District and Sessions Judge, Poonamallee and grant extension of time for depositing the amount as per the conditional order passed by the Lower Appellate Court.

For Petitioners

: Mr.K.M.Malar mannan

O R D E R

This Criminal Original Petition has been filed challenging the order passed by the Court below directing the petitioners to deposit 20% of the compensation amount as a condition for suspension of sentence.

2. It is seen from records that the petitioners faced trial for an offence under Section 138 of Negotiable Instrument Act. The Trial Court convicted the petitioners for the said offence and sentenced them to undergo 7 months Simple imprisonment and to pay a compensation of Rs.35,00,000/- and in default, the accused have also been directed to further imprisonment of one month. The petitioners have filed an appeal before the Appellate Court and the same was taken on file in C.A.No.212 of 2018. A petition was filed for suspension of sentence and the Appellate Court while allowing the petition for suspension of sentence imposed certain conditions. One such condition was that the petitioners must deposit 20% of the compensation amount within a period of two months. The petitioners were not in a position to comply with the order and therefore, filed petition for extension of time. The Court below extended the time by further period of 30 days. Even thereafter, the petitioners did not comply with the order. The petitioners also filed a petition for extension of time and the Court below dismissed the petition on the ground that the Appellate Court cannot extend the time beyond 90 days as per the amended provision under Section 148 of the Negotiable Instruments Act. Aggrieved by the same, the present petition has been filed before this Court.

3. Heard the learned counsel for the petitioners.

4. This Court is not able to find any illegality or infirmity in the order passed by the Court below and the order passed by the Court below is totally in conformity with the Judgement of the Honourable Supreme Court in *Surender Singh Deswal Vs. Virender Gandhi* made in C.A.Nos.917-944 of 2019 dated 29.05.2019. The Appellate Court after the amendment to Section 148 of the Negotiable Instruments Act can extend the time only upto 90 days and thereafter, the Appellate Court does not have the power to extend the time for deposit of the compensation amount.

5. The learned counsel for the petitioners submitted that due to financial difficulties, the petitioners were not able to deposit the amount. However, now the case is posted for hearing on 12.06.2019 and that on the same day, the petitioners are willing to deposit the compensation amount as directed by the Appellate Court as a condition for the grant of suspension of sentence.

6. Taking into consideration, the facts and circumstances of the case, even though, the order passed by the Court below is sustained, one final opportunity is given to the petitioners to comply with the condition. The petitioners are directed to deposit the compensation amount as directed by the Appellate Court while suspending the sentence, on 12.06.2019 without fail. The other conditions imposed by the Court below shall stand as it is. It is made clear that if the petitioners fail to make deposit, the suspension of sentence shall stand cancelled automatically and the Trial Court can thereafter issue a Non-Bailable Warrant against the petitioners and secure them in order to undergo the sentence imposed by the Trial Court.

7. This Criminal Original Petition is disposed of, with the above directions.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

msrm

To

- 1) The 2nd Additional District and Sessions Judge,
Tiruvallur at Poonamallee
- 2) The Judicial Magistrate,
Fast Track Court (Magistrate Level), Ambattur.

+1 cc to Mr.S.L.Venkatesan, Advocate, S.R.No.46444

Cr1.O.P.No.14648 of 2019

PVS (CO)
SSM(11/06/2019)