

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2019

CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

Crl.O.P.Nos.19457, 19463 and 19465 of 2019

1.G.Prabhu ... Petitioners in Crl.O.P.Nos.19457 and
19465 of 2019

2.Padma Priya ... Petitioner in Crl.O.P.No.19463 of 2019

Vs.

Palani

... Respondent in all the Crl.O.Ps.

Prayer in Crl.O.P.No.19457 of 2019: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to modify the order dated 06.12.2018 passed in Crl.M.P.No.6400 of 2018 in C.A.No.199 of 2018 on the file of the Principal District and Sessions Judge at Thiruvallur.

Prayer in Crl.O.P.No.19463 of 2019: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to modify the order dated 06.12.2018 passed in Crl.M.P.No.6401 of 2018 in C.A.No.198 of 2018 on the file of the Principal District and Sessions Judge at Thiruvallur.

Prayer in Crl.O.P.No.19465 of 2019: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to modify the order dated 06.12.2018 passed in Crl.M.P.No.6402 of 2018 in C.A.No.197 of 2018 on the file of the Principal District and Sessions Judge at Thiruvallur.

(in all Crl.O.Ps.)

For Petitioners : Mr.D.Thanigaivasan

COMMON ORDER

These petitions have been filed challenging the order passed by the Court below imposing a condition to deposit 20% of the compensation amount ordered by the Trial Court, while considering the petition for suspension of sentence filed by the petitioners.

2.The petitioners under went Trial for an offence under Section 138 of the Negotiable Instruments Act. The Trial Court convicted the petitioners and imposed a sentence to undergo simple imprisonment for 24 months and to pay the compensation within four months and in default to undergo 6 months simple imprisonment. The petitioners filed an appeal before the Principal District and Sessions Court, Thiruvallur. Along with the appeal, the petitioners filed a petition for suspension of sentence. The Principal District and Sessions Court, Thiruvallur after considering the facts and circumstances of the case, suspended the sentence imposed against the petitioners by imposing certain conditions.

3.One of the conditions that was imposed by the Court below was that the petitioners were directed to deposit 20% of the cheque amount within a period of two months. This order was passed on 06.12.2018.

4.This order was neither complied with nor did the petitioners seek for extension of time for deposit of the amount. After nearly 7 months, the petitioners have approached this Court challenging the order passed by the Principal District and Sessions Judge, Thiruvallur.

5.The learned Counsel for the petitioners submitted that the Court below ought not to have imposed such a onerous condition and the petitioners are not in a position to comply with the condition. The learned Counsel further submitted that the condition imposed by the Court below goes against the statutory right given to the petitioners to prosecute the appeal filed against the judgment of the Trial Court.

6.This Court has carefully considered the submissions made by the learned Counsel for the petitioners and has perused the records.

7.This Court does not find any illegality or infirmity in the order passed by the Court below. The petitioners have not complied with the orders passed by the Court below for the last 7 months. They have chosen to challenge the order after realising that in the absence of complying with the conditions, the suspension of sentence will be cancelled and the petitioners will be sent to jail to undergo the sentence. There are absolutely no reasons as to why the petitioners waited for 7 months to challenge the orders passed by the Court below. This Court does not find any ground to interfere with the orders passed by the Court below.

8.In order to give one last chance to the petitioners, this Court extends the time given by the Court below for deposit of 20% of the cheque amount, for a further period of 3 weeks from today. If the petitioners do not deposit the amount within the time stipulated by this Court, the suspension of sentence granted by the appellate Court shall stand cancelled automatically without any reference to this Court and thereafter the Trial Court can proceed further to issue Non Bailable Warrant against the petitioners and make them serve the sentence imposed against them.

9.These Criminal Original Petitions are disposed of accordingly.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Principal District and Sessions Judge,
Thiruvallur.

2.The Judicial Magistrate,
Fast Track Court (Magistrate Level No.II)
Poonamallee.

3.The II Additional District Judge,
Poonamallee.

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