

HONOURABLE DR.JUSTICE B.SIVA SANKARA RAO.

CRIMINAL PETITION NO: 13714 OF 2018

ORDER :

Heard the counsel for the petitioner/accused/appellant in Criminal Appeal No. 1033 of 2018 pending on the file of the Court of XVI-Additional District and Sessions Judge, Cyberabad at Malkajgiri, which is the out-come of the conviction judgment of the learned III-Special Magistrate at Cyberabad at Malkajgiri in C.C.No.45 of 2018, dated 16-11-2018 in finding the petitioner guilty for an offence punishable under section 138 of the Negotiable Instruments Act in sentencing to undergo simple imprisonment for one year and to pay a fine of Rs.3,00,000=00 in default the petitioner is sentenced to undergo six months simple imprisonment and out of the said fine amount, Rs.2,75,000=00 shall be paid to the complainant as compensation for the cheque and balance to the State and the same is the impugment in the criminal appeal and pending appeal there was CrI.MP.No.231 of 2018 filed for suspend of fine and compensation and the learned Sessions Judge by order dated 06-12-2018 suspended the sentence of imprisonment and also recovery of fine, compensation out of it subject to condition of depositing 30% of the amount covered by the cheque and to execute self bond for Rs.10,000/- [Rs.Ten Thousand only] with two sureties.

2. It is the impugment that the order to pay 30% of the cheque amount of Rs. 10,00,000=00 for the two cheques 860807 and 860808

respectively each for Rs.5,00,000=00 comes to Rs.3,00,000=00 that was the total fine imposed by the trial court *per se* unsustainable.

3. The first respondent/complainant even served failed to attend. Heard the learned counsel for the petitioner and taken as heard first respondent/complainant. Heard the learned Public Prosecutor representing the second respondent/State and perused the impugned order.

4. The order to pay instead of any amount out of the total fine of Rs.3,00,000=00 and the said amount of Rs.3,00,000=00 is *per se* and thereby reduced to Rs.1,50,000=00 to be payable within eight weeks from today.

5. Accordingly, this criminal petition is allowed to the extent indicated above.

6. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

DR. JUSTICE B. SIVA SANKARA RAO

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[RESULT : ALLOWED]

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