

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2020

CORAM

THE HONOURABLE MR. JUSTICE T.RAVINDRAN

Crl OP.No.17491 of 2020
and
Crl. M.P. No.6752 of 2020

Ajwar Ali
S/o. Santhu Mohammed

...Petitioner

Vs.

Kumaresan
S/o. Periyasamy

....Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to modify the condition in the order dated 18.09.2020 in Cr. M.P. No.334 of 2020 in C.A. No.54 of 2020 passed by the Hon'ble Sessions (Fast Track Mahila) Court, Namakkal, directing the deposit of 20% of the compensation amount under Section 148 of the Negotiable Instruments Act, and pass such further or other orders that this Hon'ble Court deems fit and proper in the circumstances of the case.

For Petitioner : Mr. S. Anil Sandeep

ORDER

The respondent / complainant had preferred the criminal case against the petitioner in STC No.282 of 2019 on the file of the Judicial Magistrate Court No.I, Namakkal, for the offence under Section 138 of the Negotiable Instruments Act.

2. The trial court, on an appreciation of the materials placed on record in the abovesaid case, finally disposed of the case by convicting the petitioner for the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced him to undergo simple imprisonment for a period of two

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years and also to pay a sum of Rs.10,00,000/- as compensation to the complainant.

3. Aggrieved over the conviction and sentence imposed on him by the trial court, it is seen that the petitioner has preferred an appeal in C.A.No.54 of 2020 on the file of the Principal District Court, Namakkal. It is also noted that the petitioner has preferred the Criminal M.P. No.334 of 2020 under Section 389(1) of Cr.P.C. to suspend the sentence imposed on him by the trial court in STC No.282 of 2019.

4. The appellate court, on an appreciation of the submissions put forth by the petitioner, deemed it fit to entertain the abovesaid petition preferred by the petitioner and accordingly, vide order dated 18.09.2020, suspended the sentence of imprisonment alone imposed on the petitioner for a period of three months from the date of the order on conditions and accordingly directed that the petitioner should execute a bond for Rs.10,000/- along with two sureties for like sum to the satisfaction of the Judicial Magistrate Court No.I, Namakkal, and also further directed the petitioner to deposit 20% of the total compensation amount awarded by the trial court within a period of 60 days from the date of the order as per Section 148 of the Negotiable Instruments Act in the trial court and also further directed that the petitioner shall appear and sign in the trial court on the first working day of every month at 10 a.m. and appear before the appellate court for appeal hearing.

5. Aggrieved by the direction of the appellate court directing him to deposit 20% of the compensation amount fixed by the trial court, the petitioner has preferred this Criminal original Petition to modify the said condition.

6. However, on a perusal of the impugned order and considering the decision of the Apex Court reported in 2020-2-LW 981(Surinder Singh Deswal and Ors vs. Virender Gandhi), when it is noted the appellate court is justified in directing the petitioner/accused to deposit 20% of the compensation amount imposed by the trial court pending appeal as provided under Section 148 of the Negotiable Instruments Act and thereby ordering suspension of the sentence imposed on the petitioner and when the order passed by the appellate court is in conformity with the provisions of Section 148 of the Negotiable Instruments Act read with 389(1) of Cr.PC, I do not find any infirmity or error in the abovesaid condition imposed by the appellate court directing the petitioner to deposit 20% of the compensation amount imposed on him by the trial court.

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7. In the light of the abovesaid reasons, there is no merit in the Criminal original petition. Resultantly, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

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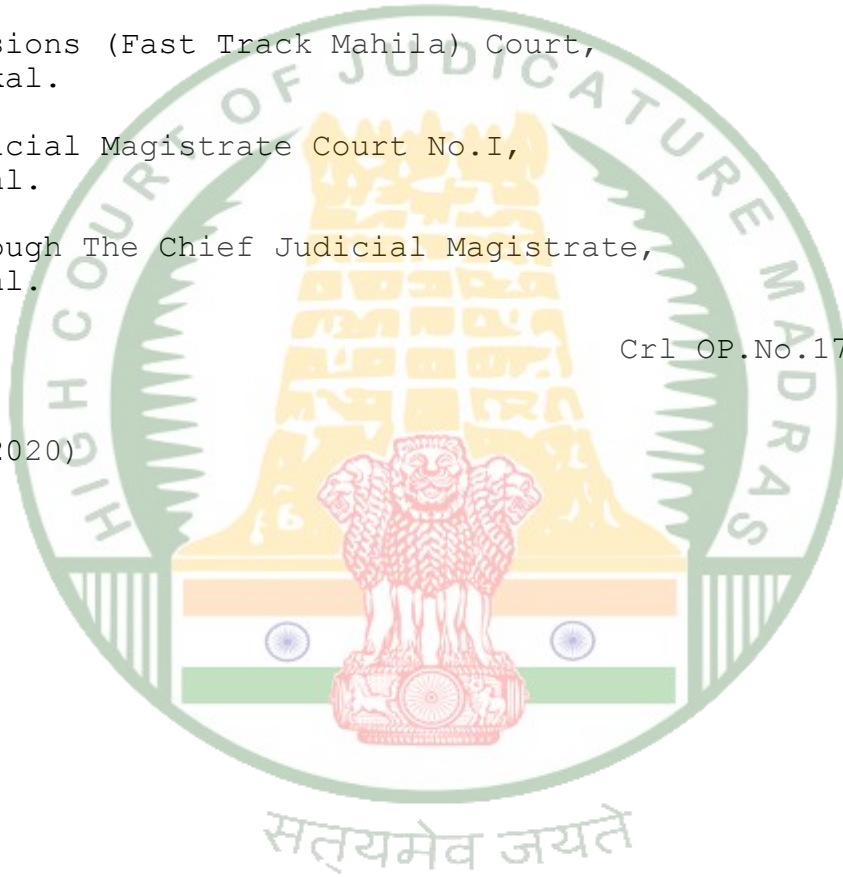
Sub Assistant Registrar

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- 1.The Sessions (Fast Track Mahila) Court,
Namakkal.
- 2.The Judicial Magistrate Court No.I,
Namakkal.
- 3.-do-Through The Chief Judicial Magistrate,
Namakkal.

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