

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.02.2021

CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

CrI.O.P.No.606 of 2021

and

CrI.MP.No.352 of 2021

Revathi

.. Petitioner

Vs.

V.Gopinath

.. Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to partially set aside the order dated and modify the condition passed by the learned Principal Sessions and District Judge, Tiruvallur in CrI.M.P.No.2954 of 2020 in CA.No.35 of 2020 in relation to the direction f mandatory payment of 20% of the cheque amount.

For Petitioner : Mr.A.Rajarajan

ORDER

This petition has been filed against the condition imposed by the Court below directing the petitioner to deposit 20% of the cheque amount within a period of one month, while suspending the sentence imposed against the petitioner for an offence under Section 138 of the Negotiable Instruments Act.

2. The learned counsel for the petitioner submitted that the petitioner has a fair chance of success in the appeal and the petitioner will be able to demonstrate that there was absolutely no legally recoverable debt or liability on the part of the petitioner. The learned counsel further submitted that the Court below did not properly exercise the discretion and has mechanically directed the petitioner to deposit 20% of the cheque amount.

3. In the considered view of this Court, there is no illegality or infirmity in the discretion exercised by the Court below. The petitioner has been convicted for the offence under Section 138 of the Negotiable Instruments Act. It is possible that the petitioner may have a fair chance of success in appeal. But, that by itself is not a ground for not insisting for the

payment of 20% of the cheque amount, since it will go against the object behind bringing an amendment under Section 148 of Negotiable Instrument Act.

4. In the considered view of this Court, after coming into force of Section 148 of Negotiable Instruments Act, the Appellate Court has been given the powers to impose a condition of depositing the compensation amount. The Hon'ble Supreme Court in ***Surinder Singh Deswal and others Vs. Virender Gandhi reported in 2020 (2) LW 981*** has categorically held that such a condition can be imposed even insofar as complaints that were filed prior to the amendment which brought into force section 148 of Negotiable Instruments Act. The Hon'ble Supreme Court has discussed in detail the object behind bringing the amendment.

5. In view of the above discussion, this Court does not find any ground to interfere with the order passed by the Court below. However, taking into consideration the facts and circumstances of the case, there shall be a direction to the petitioner to deposit 20% of the cheque amount on or

before 15.03.2021. It is made clear that if the petitioner fails to deposit the amount within the time stipulated by this Court, the suspension of sentence granted by this Court shall stand automatically cancelled and the petitioner will have to be secured in order to undergo the sentence imposed by the trial Court.

6. This Criminal Original Petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed.

08.02.2021

Index :Yes/No
Internet:Yes/No
Speaking/Non speaking order
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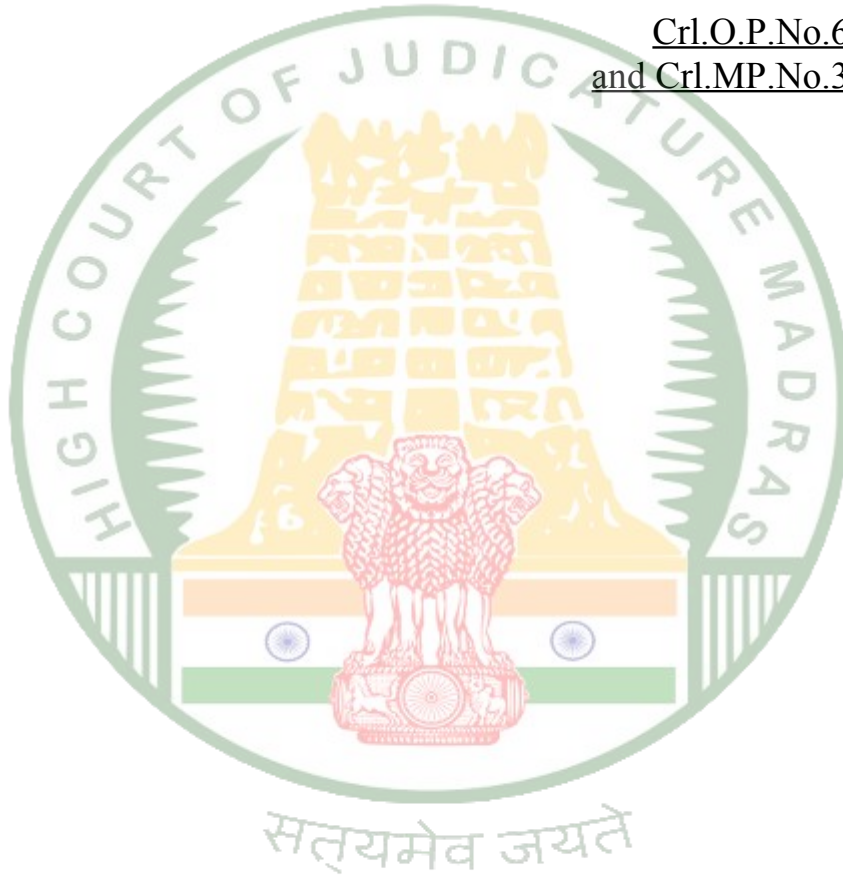
Note :Issue order copy on 09.02.2021

N. ANAND VENKATESH,J

rli

To
The Principal District Judge,
Tiruvallur.

Crl.O.P.No.606 of 2021
and Crl.MP.No.352 of 2021



08.02.2021

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