

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2021

CORAM :

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.Nos.4000 and 4003 of 2021

G.Ramesh ... Petitioner in both Crl.OPs.

Vs.

1. K.Baskaran

2. The Public Prosecutor
Coimbatore. ... Respondents in both Crl.O.Ps.

Prayer in Crl.O.P.Nos.4000 and 4003 of 2021 : Criminal Original Petitions filed under Section 482 of Cr.P.C. to allow the above Crl.O.Ps. by setting aside the order of the condition dated 21.12.2020 passed in Crl.M.P.Nos.3571 and 3570 of 2020 in C.A.Nos.240 and 239 of 2020 respectively on the file of the Principal District & Sessions Court, Coimbatore in so far as it relates to the condition of depositing a sum of Rs.1,00,000/- towards the part compensation amount is concerned.

For Petitioner
in both Crl.O.Ps. : Mr.K.Govi Ganesan

For Respondents
in both Crl.O.Ps. : Mr.C.Raghavan
Government Advocate

ORDER

These petitions have been filed against the condition imposed by the Court below directing the petitioner to deposit 20% of the cheque amount within a period of two months, 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 31.03.2021. 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 the Court below shall stand automatically cancelled and the petitioner will have to be secured in order to undergo the sentence imposed by the trial Court.

6. These Criminal Original Petitions are disposed of accordingly.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rka

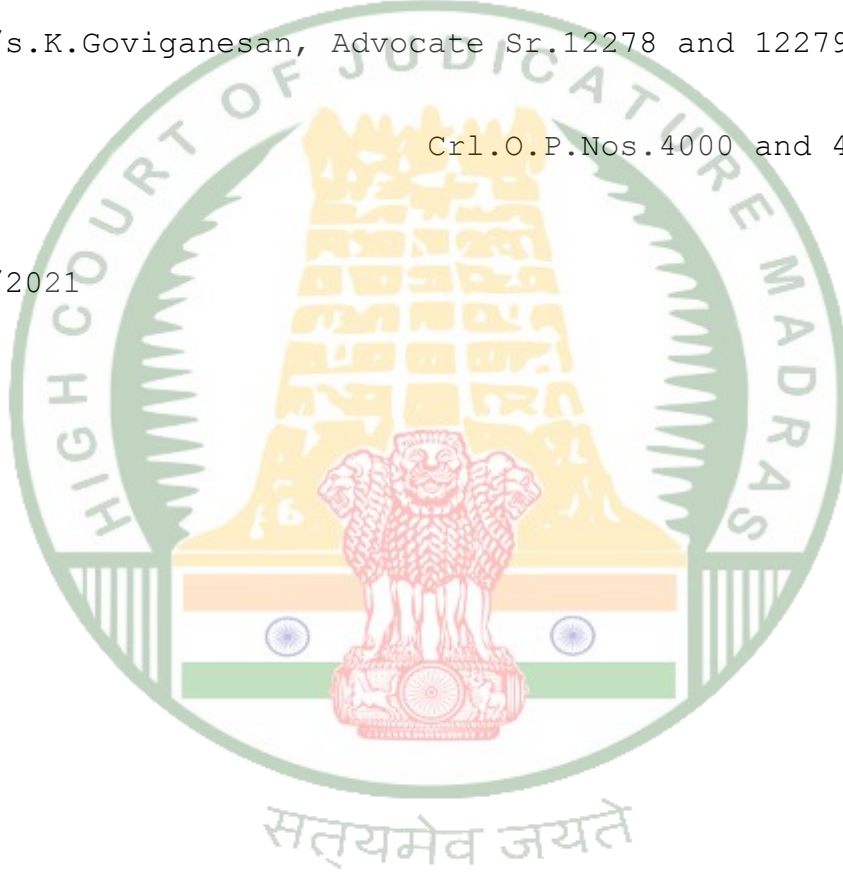
To

1. Principal District & Sessions Judge,
Coimbatore.
2. The Additional Public Prosecutor,
High court, Madras.
3. The Public Prosecutor,
Coimbatore.

+2cc to M/s.K.Goviganesan, Advocate Sr.12278 and 12279

Crl.O.P.Nos.4000 and 4003 of 2021

aab[co]
srg 31/03/2021



WEB COPY