

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.5151 of 2021

Benny samraj

.. Petitioner

Vs.

G.Lalith Kumar

.. Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the order dated 26.02.2021 passed in Cr.MP.No.1001 of 2021 in C.A.No.1 of 2021 on the file of Principal Sessions Court, Kanchipuram District at Chengalpattu, set-aside the same insofar as it relates to the direction of depositing a sum of Rs.1,05,000/- before the trial Court within 30 days.

For Petitioner : Mr.K.Govi Ganesan

ORDER

This petition has been filed challenging the condition imposed by the Court below directing the petitioner to deposit a sum of Rs.1,05,000/- while allowing the petition seeking for suspension of sentence.

2. The petitioner was convicted and sentenced for an offence under Section 138 of the Negotiable Instrument Act. The Trial Court imposed a sentence directing the petitioner to deposit twice the cheque amount as compensation under Section 357 of Cr.PC. The total amount works out to a sum of Rs,4,20,000/-.

3. The petitioner filed an appeal before the Court below in Crl.A. No.1 of 2021 and also filed a petition seeking for suspension of sentence. The Court below while allowing the petition imposed a condition directing the petitioner to deposit a sum of Rs.1,05,000/- in line with Section 148 of the Negotiable Instrument Act. Aggrieved by the same, the present petition has been filed before this Court.

4. The learned counsel for the petitioner submitted that the petitioner is facing serious financial constraints

and the Court below has directed the petitioner to deposit nearly 25% of the compensation amount within a period of 30 days. The learned counsel further submitted that even the provision under Section 148 of the Negotiable Instruments Act stipulates a minimum of 20% and the Court below ought to have taken the same into consideration and passed appropriate orders.

5.This Court has carefully considered the submissions made by the learned counsel for the petitioner and also the materials available on record.

6.Taking into consideration the facts and circumstances of the case and also of the fact that the petitioner is facing some financial constraints, this Court is inclined to modify the condition imposed by the Court below to the effect that the petitioner shall deposit a sum of Rs.84,000/- instead of Rs.1,05,000/- as directed by the Court below. This deposit shall be made on or before 15.04.2021. 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.

7. The order passed by the Court below is modified accordingly and the other conditions imposed by the Court below shall stand as it is and accordingly, this Criminal Original Petition is allowed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rka

To

1. The Principal Sessions Court,
Kanchipuram District at
Chengalpattu,
2. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.K. GOVI GANESAN, Advocate, S.R.No.16537

BS(CO)
SM/17/03/2021 (IT)

Cr1.O.P No.5151 of 2021