



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.OP.No.496 of 2022

S.Vatchala

... Petitioner

Vs.

Sundarajulu

... Respondent

Prayer: Criminal Original Petition has been filed under Section 482 Cr.P.C to extent the time for enabling the petitioner to comply with the condition imposed in Crl.M.P.No.5168 of 2021 in Crl.A.No.83 of 2021 by order dated 08.12.2021 passed by the Hon'ble Principal District and Sessions Judge, Tiruvallur.

For Petitioner : Mr.P.Thirumoorthy

For Respondent : Mr.R.Vinothraja
Government Advocate (Crl.Side)

ORDER

The criminal original petition has been filed to extent the time for enabling the petitioner to comply with the condition imposed in Crl.M.P.No.5168 of 2021 in Crl.A.No.83 of 2021 by order dated 08.12.2021 passed by the Hon'ble Principal District and Sessions Judge, Tiruvallur.

2.The grievance of the petitioner is that the petitioner is the accused in C.C.No.227 of 2018 for offence under Section 138 of the Negotiable Instrument Act. On completion of the trial, the Judicial Magistrate, Fast Track Court, (Magisterial Level), Ambattur, convicted the petitioner and sentenced her to undergo 9 months simple imprisonment and pay a compensation of Rs.10,00,000/-. Against which, the petitioner preferred an appeal in C.A.No.83 of 2021 and filed suspension of sentence petition in Crl.M.P No. 5168 of 2021 before the Principal District and Sessions Judge, Tiruvallur and the lower appellate Court by an order dated 08.12.2021 admitted the appeal and granted suspension of sentence with condition that the petitioner to deposit 20% of the compensation amount before the trial Court to the credit of C.C.No.227 of 2018 within a period of one month and to appear before the III Additional District



and Sessions Judge, Poonamallee on 10.01.2022.

3.The contention of the learned counsel for the petitioner is that as per Section 148 (2) of The Negotiable Instrument Act, the appellate Court can order the appellant to deposit of such sum, which shall be a minimum of twenty per cent of the fine or compensation awarded by the trial Court in an appeal against conviction by giving 60 days time limit. Further, which can be extended by a period of 30 days if sufficient cause given. In total, 90 days the accused is entitled. Contrary to the provision, the lower appellate Court directed the petitioner to pay 20% of compensation amount within 30 days.

4.Finding force in the petitioner's submission and on referring to Section 148 of NI Act, it is clear that the appellant/accused in Section 138 of NI Act case to be given 60 days' time at the first instance and extended by a period of 30 days if sufficient cause has been given.

5.In view of the same, the petitioner is granted a period of two months time to deposit 20% of the compensation amount i.e. Rs.2,00,000/- from the date of receipt of a copy of this order. Accordingly, this criminal original petition is allowed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sms

To

1.The Principal District and Sessions Judge,
Tiruvallur.

2.The Public Prosecutor, High Court,
Madras.

Crl.OP.No.496 of 2022

NK(CO)
SB(23/02/2022)