



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Seventeenth day of June Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice D. BHARATHA CHAKRAVARTHY

CRIMINAL MISCELLANEOUS PETITION No.7544 of 2022

IN CRL.RC.NO.481 of 2022

ASHRAF

[PETITIONER/APPELLANT/ACCUSED]

Vs

DEVARAJ

[RESPONDENT/COMPLAINANT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to modify the condition to the petitioner shall deposit 50% percentage of the cheque amount Rs.5,00,000 to the credit of S.T.C.No.1732 of 2017 before the trial court i.e., the learned Judicial Magistrate No.I, Ponneri as per orders of this Hon'ble Court in Crl.M.P.No.4980 of 2022 and Crl.MP.No.4981 of 2022 on Crl.R.C.No.481 of 2022 dated 28.04.2022 by considering earlier deposit of 20% percentage and to the limited extent of deposit 30% percentage of cheque amount and pass such or further orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and in the interest of justice.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.R.GANESH KUMAR, Advocate for the petitioner and of MR.K.BHARATHI, Advocate on behalf of the Respondent the court made the following order:-

This petition has been filed to modify the condition imposed by this Court, namely, to deposit 50% of the cheque amount, while suspending the sentence by order dated 28.04.2022.

2. The learned counsel appearing for the petitioner would submit that this is a case involving high value cheque. He would further submit that the petitioner had already deposited 20% of the cheque amount by virtue of order passed under Section 148 of Negotiable Instruments Act. However, the said fact was not taken into account while imposing the condition to deposit 50% at the time of granting suspension of sentence.



3. The learned counsel for the respondent would oppose the prayer for modification stating that already, the complainant has suffered.

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4. However, considering the over all facts and circumstances of the case, I am inclined to modify the earlier order dated 28.04.2022 passed by this Court on the following terms:

"(i) While computing 50% of the cheque amount to be deposited, 20% of the cheque amount already deposited by the petitioner shall also be taken into account i.e, to say that the petitioner herein shall deposit the balance 30% to the credit of S.T.C. No. 1732 of 2017 before the Trial Court, i.e, the learned Judicial Magistrate No.I, Ponneri;

(ii) As requested by the learned counsel for the petitioner, eight weeks time is granted from today to the petitioner to deposit the said 30%;

(iii) It is made clear that no further extension of time will be granted to the petitioner to make the deposit;

(iv) If the petitioner fails to comply with the said condition, suspension of sentence granted by this Court in CrI.M.P. No. 4980 of 2022 by order dated 28.04.2022 shall stand automatically vacated and the Trial Court will be at liberty to issue warrant and commit the petitioner to prison to serve the sentence pending revision.

5. The criminal miscellaneous petition is ordered accordingly. Post the criminal revision case on 08.08.2022 for hearing.

-sd/-

17/06/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE IV ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TIRUVALLUR AT PONNERI.



2 THE JUDICIAL MAGISTRATE,
NO. I, PONNERI.

3 THE CHIEF JUDICIAL MAGISTRATE
TIRUVALLUR [FOR INFORMATION]

4 THE SECTION OFFICER
CRIMINAL SECTION,
HIGH COURT, MADRAS.

+1C.C. to M/S.R.GANESH KUMAR Advocate on payment of necessary
charges SR.No.9445

Order
in
CRL MP.7544/2022
in
CRL.RC.NO.481/2022
Date :17/06/2022

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CSK 21/06/2022