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Crl.O.P.No.7565 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.CHANDRASEKHARAN**

Crl.O.P.No.7565 of 2023

P.Eswaran

... Petitioner

Vs.

T.M.Muralidharan

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the conditional order (i) that 20 percentage of the cheque amount (less if any of the amount paid under S 143A of NI Act) is ordered to be deposited before the trial court by the petitioner / appellant / accused in terms of S.148 of N.I. Act within a period of 30 days from the date of this order failing which this Order of suspension of execution of sentence of the said imprisonment shall stand vacated automatically passed in C.M.P.No.673/2023 in CA.No.58/2023 dated 16.02.2023 on the file of the Principal District and Sessions Judge Erode.

For Petitioner : Mr.M.Mariappan

For Respondent : No appearance



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ORDER

This Criminal Original Petition has been filed to set aside the conditional order (i) that 20 percentage of the cheque amount (less if any of the amount paid under S 143A of NI Act) is ordered to be deposited before the trial court by the petitioner / appellant / accused in terms of S.148 of N.I. Act within a period of 30 days from the date of this order failing which this Order of suspension of execution of sentence of the said imprisonment shall stand vacated automatically passed in C.M.P.No.673/2023 in CA.No.58/2023 dated 16.02.2023 on the file of the Principal District and Sessions Judge Erode.

2. The learned counsel for the petitioner submitted that petitioner was convicted and sentenced by learned Judicial Magistrate, Fast Track Court No.II, Erode, under Section 138 of Negotiable Instruments Act. Petitioner was sentenced to undergo three months simple imprisonment and directed to pay the cheque amount of Rs.8,00,000/- as compensation to the respondent. Petitioner filed appeal against the said judgment in Crl.A.No.58 of 2023 on the file of the learned Principal District and Sessions Judge, Erode. The learned Principal District and Sessions Judge, Erode, suspended the sentence with following conditions:-



a)the execution of sentence of imprisonment in STC No.518 of 2018 dated 09.01.2023 on the file of the Court of Judicial Magistrate, Fast Track Court No.II, Erode, is suspended till the appeal is disposed of, with the following conditions,

i)that 20% of the cheque amount (less if any of the amount paid under Section 143 A of NI Act) is ordered to be deposited before the trial Court by the petitioner/appellant/accused in terms of Section 148 of Negotiable Instruments Act within a period of 30 days from the date of this order, failing which this order of suspension of execution of sentence of the said imprisonment shall stand vacated automatically and

ii)that the petitioner/appellant/accused, within 15 days from the date of such deposit of 20% of the cheque amount, has to execute a bond for a sum of Rs.10,000/- with two sureties for the like sum each to the satisfaction of the learned Judicial Magistrate, Fast Track Court No.II, Erode, and

b)the learned Judicial Magistrate, Fast Track Court No.II, Erode, shall follow the procedures laid down under Section 148 of NI Act in respect of the amount so deposited.

3.Challenging the condition to deposit 20% of cheque amount, this petition is filed. Petitioner is not able to mobilize the fund especially within a period of 15 days time granted by the learned Principal District and Sessions



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Judge, Erode, this petition is filed.

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4. Section 148 of Instruments Act, deals with power of Appellate Court to order the appellant to deposit a sum which shall be minimum of 20% of the fine or compensation awarded by the trial Court. The trial Court awarded compensation of cheque amount of Rs.8,00,000/-. Therefore, this Court finds there is nothing illegality or infirmity in the order passed by the learned Principal District and Sessions Judge, Erode, in imposing condition to the petitioner to deposit 20% of the cheque amount. However, considering the request made by the learned counsel for the petitioner that petitioner is not able to mobilize funds within a period of 15 days, this Court gives further 30 days from the date of receipt of copy of this order for depositing the amount as ordered by the trial Court.

5. With the above direction and observation, this Criminal Original Petition is disposed of.

10.04.2023

Internet: Yes
Index: Yes/No



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G.CHANDRASEKHARAN, J.
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