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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.17519 of 2023

S.Vinayagam

.. Petitioner

Vs.

W.Karthick Kumar

.. Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside the docket order dated 19.07.2023 passed by the learned IV Additional District and Sessions Judge, Ponneri.

For Petitioner

: Mr.Jaganathan

ORDER

This petition has been filed challenging the Docket Order passed by the Court below retuning the application filed by the petitioner under Section 148(3) of the Negotiable Instruments Act to withdraw the compensation amount that was deposited by the respondent/accused pending the criminal appeal.



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2.This Court carefully heard the learned counsel for the petitioner and perused the records.

3.The petitioner/complainant filed a complaint against the respondent/accused for offence under Section 138 of the Negotiable Instruments Act. The Trial Court by judgment dated 20.03.2023 made in STC No.4541 of 2018 convicted the respondent and sentenced him to undergo simple imprisonment for a period of six months and further directed a sum of Rs.10,43,000/- to be paid as compensation and in default to undergo 30 days simple imprisonment.

4.Aggrieved by the above judgment, the respondent filed an appeal before the Principal District Judge, Thiruvallur in CrI.A.No.91 of 2023. The respondent also filed an application for suspension of sentence and the sentence was suspended by an order dated 20.04.2023 directing the respondent to deposit 20% of the compensation amount fixed by the Trial Court. Accordingly, the respondent also deposited the amount of Rs.2,08,600/- before the Trial Court on 16.06.2023.



5.The petitioner filed an application under Section 148(3) of the Negotiable Instruments Act seeking to withdraw the compensation amount lying in STC No.4541 of 2018.

6.The grievance of the petitioner is that the Court below even without considering the application, has mechanically returned the petition stating that the petition is not maintainable. Aggrieved by the same, the present criminal original petition has been filed before this Court.

7.In the considered view of this Court, the Court below ought to have entertained the application and must have dealt with the same in accordance with Section 148 of the Negotiable Instruments Act. The said provision was inserted through Act 20 of 2018 which came into effect from 01.08.2018. The provision was brought in only to provide an interim relief to the complainant who can be permitted to withdraw the amount deposited pending the appeal. The Court below ought to have entertained the application since it is very much maintainable and it goes without saying that the Court must consider the said application in line with the provision under Section 148 of the Negotiable Instruments Act.



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8. In the light of the above discussion, there shall be a direction to the Court below to entertain the application filed by the petitioner seeking for the withdrawal of the compensation amount deposited by the respondent/accused and deal with the same in line with Section 148 of the Negotiable Instruments Act, 1881.

9. This criminal original petition is accordingly allowed and the Court below is directed to deal with the application after hearing the other side and pass final orders, within a period of two weeks from the date of receipt of copy of this order.

10. The Registry is directed to return back the original application to the learned counsel for the petitioner in order to enable the petitioner to re-present the same before the Appellate Court and workout his remedy.

04.08.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
SSR



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- 1.The IV Additional District and Sessions Judge, Ponneri.
- 2.The Public Prosecutor
High Court of Madras,
Madras.



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N.ANAND VENKATESH, J

SSR

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