



CrI.O.P.No.25545 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.12.2023

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.25545 of 2023

1. L.Senthil Kumaran,
2. T.Soughath Raana,
3. R.Mahalakshmi,

... Petitioners/Appellants Accused No.2 - 4
/versus/

M/s.Nikita Agency,
Mrs.Kusumdevi more Proprietor,
Female Aged 69 years, Wife of Rajaram More,
Office at No.356, Mint Street, Sowcarpet,
Chennai – 600 079.
Represented by her Power Agent,
BHARAT R MORE.

... Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., pleaded to extend the time to deposit 20% of the cheque amount in the order dated 08.10.2020 imposed by the Learned Principal Sessions Judge, Chennai, in CrI.M.P.No.9666 of 2020 in CrI.A.No.91 of 2020 against C.C.No.5795 of 2008 on the file of the Metropolitan Magistrate, FTC – IV, George Town, Chennai.

For Petitioners : Mr.S.Suresh.

For Respondent : Mr.E.Senthil Kumar.

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ORDER

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This Criminal Original Petition is filed by the accused, who was found guilty by the trial Court for the offence under Section 138 of N.I. Act. While sentencing the petitioners, the trial Court apart from imprisonment of two years S.I and also directed the petitioners to pay the compensation of Rs.1,00,00,000/- being the cheque amount.

2. Aggrieved by the conviction and sentence passed by the trial Court, the petitioners have approached the Lower Appellate Court along with the application for suspension of sentence. The Principal Sessions Court admitted the Appeal in C.A.No.91 of 2020 and made over to VI Additional Sessions Court, Chennai. The application for suspension of sentence in CrI.M.P.No.9666 of 2020 was disposed of with the direction, the petitioner shall deposit 20% of the cheque amount to the credit of C.C. account to suspend the sentence and 60 days time was granted to deposit a sum of Rs.20 lakhs. This order was passed on 08.10.2020.

3. Pending appeal, the petitioners have filed CrI.O.P.No.19658 of 2020, before this Court, seeking modification of the condition and same was



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dismissed as infructuous since Non-Bailable Warrant was issued against these petitioners herein for non-compliance of the condition within the time stipulated.

4. Now, it has been stated that, in the Court of appeal has issued proclamation on 2nd February 2023 against these petitioners since they were declared as absconder, after publication proclamation issued. At this juncture, the petitioners are before this Court seeking extension of time to deposit 20% of the cheque amount.

5. On 09.11.2023, when the matter came up for consideration, the Learned Counsel for the petitioners are permitted to take private notice to the respondent. Accordingly, the respondent had taken notice and had engaged counsel.

6. Today 15.12.2023, when the case is taken up for hearing, the Learned Counsel for the petitioners as well as the respondent are present before this Court.



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7. Earlier, this Court instructed the Learned Counsel for the petitioners that, in spite of 3 years from the date of judgment, directing the petitioners to pay the compensation amount of Rs.1,00,00,000/-. The petitioners neither surrender for undergoing the sentence nor comply the condition. Therefore, his bonafide is doubted. To dispel the said doubt, today the Learned Counsel for the petitioners have produced a demand draft of Rs.30,00,000/- i.e., 30% of the cheque amount drawn in favour of III Metropolitan Magistrate (C.C.No.5795 of 2008 FTC-IV) and seek for indulgence of this Court to enable the petitioners from surrendering before the VI Additional Sessions Court, to recall the proclamation and also entertain their application under Section 389 (3) of Cr.P.C., for suspension of sentence.

8. The Learned Counsel for the respondent pointing that the complaint is pending for more than 15 years and there may be some direction to the Appellate Court to dispose of the appeal within reasonable time.

9. Recording the submission, this ***Criminal Original Petition is disposed of*** with the following direction:-

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(i). The petitioners should appear before the Learned VI Additional Sessions Judge, Chennai on or before 22.12.2023. In the meanwhile, the learned Counsel for the petitioners shall present the demand draft before the III Additional Metropolitan Magistrate, FTC-IV, Chennai and produce the same before the VI Additional Sessions Court, Chennai. On appearance and production of the proof of deposit this amount, proclamation issued shall be recalled and application for suspension of sentence shall be considered and appropriate order may be passed.

(ii). The Lower Appellate Court shall also ensure that the appeal been heard and disposed of as expeditiously as possible, taking note of the fact that, it is pending for nearly 3 years.

(iii). On deposit of demand draft, the trial Court shall invest in the bank accruing interest.

15.12.2023

Index :Yes/No.

Internet :Yes/No.

Speaking Order/Non-Speaking Order

bsm

Note: Issue order copy today (15.12.2023)

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Copy to:-

1. The Learned Principal Sessions Judge, Chennai,
2. The Metropolitan Magistrate, FTC – IV, George Town, Chennai.



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DR.G.JAYACHANDRAN, J.

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