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Crl.O.P.Nos.26368 of 2023 etc ba...



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.Nos.26368, 26382, 26421, 26410, 26408, 26407, 26406, 26405, 26383, 26380, 26412, 26411, 26403, 26372, 26404, 26373 and 26370 of 2023

V.Gunasekaran

... Petitioner in all Crl.OPs

Vs.

M.G.Baskaran

... Respondent in all Crl.OPs

Common Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to set aside the order dated 13.10.2023 in Crl.M.P.Nos.26276, 26308, 26315, 26280, 26324, 26323, 26313, 26315, 26306, 26314, 26364, 26321, 26322, 26304, 26318, 26290 & 26299 of 2023 in Crl.A.Nos.605, 613, 614, 606, 622, 621, 615, 617, 612, 616, 626, 619, 620, 611, 618, 607 & 610 of 2023 passed by the 1st Additional Sessions Judge, Chennai, in so far as it relates to the condition to deposit 20% of the compensation amount.

For Petitioner in all Crl.OPs: Mr.N.Murali Kumaran, Sr.Counsel
for M/s.McGAN Law Firm



COMMON ORDER

The batch of Criminal Original Petitions are filed seeking intervention of this Court to the order passed by the lower appellate Court in Crl.M.P.Nos.26276, 26308, 26315, 26280, 26324, 26323, 26313, 26315, 26306, 26314, 26364, 26321, 26322, 26304, 26318, 26290 & 26299 of 2023 in Crl.A.Nos.605, 613, 614, 606, 622, 621, 615, 617, 612, 616, 626, 619, 620, 611, 618, 607 & 610 of 2023.

2. The facts of the case is that the petitioner herein is the accused in a private complaint initiated under Section 138 of Negotiable Instruments Act. All the batch of 17 cases, it is alleged that the cheques given by the petitioner herein were bounced without fund. Therefore, prosecuted under Section 138 of N.I.Act.

3. The trial Court found the petitioner guilty and sentenced to undergo one year Simple Imprisonment and to pay fine of double the cheque amount within one month as compensation. When same was challenged in Crl.A.Nos.605, 613, 614, 606, 622, 621, 615, 617, 612, 616, 626, 619, 620, 611, 618, 607 & 610 of 2023, before the lower appellate Court along with applications for suspension of sentence, the lower appellate Court had



imposed condition to deposit 20% of the compensation amount within a period of 60 days from the date of order.

4. The learned Senior Counsel appearing for the petitioner submitted that already a complaint been given by the daughter of this petitioner alleging that 27 blank cheques were obtained by the complainant on promise to arrange for an enhanced compensation for the land acquired from her father by the Government been misused by the complainant and same is under investigation by the Ramachandra Medical College hospital police station, pursuant to the direction given by the learned Judicial Magistrate-I, Poonamallee, pending investigation in Crime No.205 of 2018. Hence, application under Section 148 of N.I.Act requires consideration.

5. On going through the records and the petition filed by the daughter of this petitioner seeking expeditious investigation of her complaint dated 10.04.2018 also is listed today. This Court is of the view that there is an exceptional circumstances prevails in this case which requires a complete waiver of the conditional amount as laid by the Hon'ble Supreme Court in the recent judgment rendered in Jamboo Bhandari Vs. M.P.State Industrial



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Development Corporation Ltd. & Ors, dated 04.09.2023 wherein, the Hon'ble Supreme Court has said that there must be a purposive interpretation of Section 148 of N.I.Act and when there is serious cloud over the enforceable liability arising out of the subjective cheque, it is just and necessary to invoke the exceptional clause and grant the waiver of the deposit of conditional amount.

6. Accordingly, the order passed by the 1st Additional Sessions Judge, Chennai in Crl.M.P.Nos.26276, 26308, 26315, 26280, 26324, 26323, 26313, 26315, 26306, 26314, 26364, 26321, 26322, 26304, 26318, 26290 & 26299 of 2023 in Crl.A.Nos.605, 613, 614, 606, 622, 621, 615, 617, 612, 616, 626, 619, 620, 611, 618, 607 & 610 of 2023 in so far as the condition to deposit 20% of the compensation amount is set aside.

Accordingly, these Criminal Original Petitions are disposed of.

23.11.2023

Index : Yes/No

Neutral Citation : Yes/No

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To

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The 1st Additional Sessions Judge, Chennai

Dr.G.JAYACHANDRAN,J.



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