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Crl.O.P.No.26965 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.11.2023

CORAM :

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.26965 of 2023

1. M/S FORTUNE MIX INDIA PVT LTD

Rep by its Director

Anguraj Perumal

2. Anguraj Perumal

3. D. Kasiviswanathan

... Petitioner

-VS-

M/s Sarvesh Exports

A Partnership Firm

Having its place of business at

door 54/39, Kangayam Road,

near Rakiapalayam Pirivu,

Tiruppur-641 606

rep by their power of attorney holder and

CEO Mr.R.Dinesh, S/o.Rathinasamy

.. Respondent

PRAYER: Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to set aside and modify the condition imposed by the Principal District Judge, Tiruppur in Crl.M.P.No.1 of 2023 in Crl.A.No.278 of 2023 against S.T.C.No.698 of 2019 dated 15.11.2023

For Petitioner

: Ms.S.Annakkodi

**ORDER**

Challenging the order passed by the lower appellate Court in an Application filed under Section 389 (1) Cr.P.C., the present petition is filed.

2. The petitioners are the convicted accused in S.T.C. No.698 of 2019, order dated 18.10.2023, the trial Court sentenced them to undergo six months simple imprisonment and directed to pay the cheque amount of Rs.25,00,000/- as compensation to the complainant within one month, failing which, to undergo further one month simple imprisonment. Challenging the said order, the petitioners have preferred an Appeal before the learned Principal Sessions Judge, Tiruppur in C.A. No.278 of 2023 wherein, the above Miscellaneous Petition is filed. The lower appellate Court had directed them to deposit 20% of the compensation amount within a period of 15 days from the date of order, failing which, the order of suspension of sentence will stand dismissed.

3. The learned counsel appearing for the petitioners challenging the impugned order on two fold, submitted that firstly, the time limit of 15 days to deposit the money is contrary to Section 148(2) of the Negotiable Instruments Act, 1881, which permits the petitioner to deposit the 20% of the compensation amount within a period of 60 days and further period not exceeding 30 days. Furthermore, such an order is not a mandatory one. The appellate Court has a



discretion either to reduce or waive the said condition.

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4. Secondly, the learned counsel for the petitioners submitted that this petitioners are only employees of the first accused Company. The first accused Company is now under liquidation. Though the second ground raised by the petitioner is not convincing, as far as the condition to deposit the 20% of the compensation amount, 15 days time for depositing appears to be very onerous and contrary to Section 148(2).

5. Hence, to that extent, the order of the lower appellate Court is modified and the petitioner is directed to pay 20% of the compensation amount within a period of 60 days from the date of order that is 15.11.2023.

29.11.2023

Internet : Yes/No

Index : Yes/No

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To

1.The Principal Sessions Judge,
Tiruppur.

2.The Judicial Magistrate,
Fast Track Court,
Tiruppur.



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Dr.G.JAYACHANDRAN,J.

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