



Crl.O.P.No.28177 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2023

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.28177 of 2023

A.R.Rajamani

.. Petitioner

/versus/

S.V.Chalapathi

.. Respondent

Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the orders passed in Crl.M.P.No.4236 of 2023 in CA.No.401 of 2023 dated 15.11.2023 on the file of the Principal Sessions Judge, Erode in so far as it directs the petitioner to deposit 20% of the cheque amount and set aside the same.

For Petitioner : Mr.S.Kamadevan

ORDER

This Criminal Original Petition is filed being aggrieved by the order of the Lower Appellate Court imposing condition to deposit 20% of the compensation amount without granting the mandatory 60 days time to deposit.

2. It is also contended that the Lower Appellate Court has not assigned



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the reason for imposing condition to deposit 20% of the compensation amount as condition to suspend the sentence. The impugned order passed on 15.11.2023 suspended the sentence of imprisonment imposed by the trial Court in S.T.C.No.137 of 2021 dated 18.10.2023. In the said order the Lower Appellate Court has directed the petitioner to deposit 20% of the cheque amount i.e., Rs.4,00,000/- within 30 days from the date of order, failing which suspension of execution of sentence shall stand vacated automatically.

Section 148 of Negotiable Instruments Act reads as below:-

148. Power of Appellate Court to order payment pending appeal against conviction.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), in an appeal by the drawer against conviction under Section 138, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty per cent of the fine or compensation awarded by the trial Court:

Provided that the amount payable under this sub-section shall be in addition to any interim compensation paid by the appellant under Section 143-A.

(2) The amount referred to in sub-section (1) shall be



deposited within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the appellant.

(3) The Appellate Court may direct the release of the amount deposited by the appellant to the complainant at any time during the pendency of the appeal:

Provided that if the appellant is acquitted, the Court shall direct the complainant to repay to the appellant the amount so released, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.

3. The conditional order to deposit 20% of the compensation amount though is in order and inconsonance with the provision of the Act, 30 days alone is granted for deposit of money and it is not in accordance with the provision. The Act provides 60 days time to deposit and in case of proper explanation subject to the satisfaction of the Appellate Court, the said 60 days time may be extended for



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another 30 days. The order of suspending the sentence and condition to deposit 20% of the compensation amount is dated 15.11.2023, 60 days the time to deposit will get expired on 14.01.2023, therefore, pointing out the error in not granting 60 days time to deposit Rs.4,00,000/- in S.T.C account is extended, 20% of compensation amount on or before 14.01.2024 has to be deposited.

4. With this observation, this Criminal Original Petition is disposed of .

19.12.2023

Netural Citation:yes/no
rpl

Copy to:
The Principal Sessions Judge, Erode.



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Dr.G.JAYACHANDRAN, J.

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