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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.981 of 2024

Mohan

...Petitioner

.Vs.

Baskar

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to set aside the order dated 15.9.2023 passed in CrI.MP.No.5539 of 2023 in Criminal Appeal No.239 of 2023, pending on the file of the Principal District & Sessions Judge at Tiruvallur and to modify the condition made in the order dated 15.9.2023 passed in CrI.MP.No.5539 of 2023 in Criminal Appeal No.239 of 2023 by the Principal District & Sessions Judge at Tiruvallur.

For Petitioner : Mr.R.Vignesh

For Respondent : Mr.R.Prasad

ORDER

When the matter came up for hearing on 21.2.2024, this Court passed the following order:

Notice to the respondent returnable by 19.02.2024.

Private notice is also permitted.

2. The main issue that has been raised in this petition is that the Court below ought not to have imposed a condition of deposit of 20% of the compensation amount as a condition precedent while suspending the sentence imposed against the



petitioner for offence u/s.138 of the Negotiable Instruments Act since the cheque was issued by a company, whereas, the company was not arrayed as an accused. This ground was also taken in the grounds of appeal that was filed in CrI.A.No.239 of 2023. Therefore, according to the petitioner, the appellate Court ought to have exempted the petitioner from depositing the amount since the issue is squarely covered by the judgment of the Apex Court.

3. The issue raised by the petitioner requires consideration and hence, the condition imposed by the Court below directing the petitioner to deposit 20% of the compensation amount alone is stayed. A final order will be passed after hearing the respondent.

Post this case under the caption "for orders" on
19.02.2024. 22.01.2024

2.Heard Mr.R.Vignesh, learned counsel for the petitioner and Mr.R.Prasad, learned counsel for the respondent.

3.In the considered view of this Court, the condition that was imposed by the Court below by imposing maximum 20% of the compensation amount to be deposited has been put to challenge. Certain grounds have been raised by the learned counsel for the petitioner questioning the discretion that was exercised by the appellate court. This Court has already held in CrI.OP.No.947 of 2024 dated 22.01.224 as follows:



thought it fit to bring to the notice of the District Judiciary the above two judgments, particularly, the judgment of the Apex Court. While dealing with an application for suspension of sentence or for grant of bail when an appeal is filed against the conviction for offence u/s.138 of the Negotiable Instruments Act, the Courts must not mechanically impose a condition of deposit of 20% of the compensation amount/cheque amount u/s.148 of the Negotiable Instruments Act. When any ground has been raised by the appellant for reducing the percentage or for exempting the deposit of such amount, it has to be dealt with by the appellate Court and a reasoned order must be passed if the Court wants to direct the appellant to deposit 20% of the compensation amount/cheque amount. A copy of this order shall be circulated to all the Principal District Courts across the State of Tamil Nadu.

4. In view of the above, this Court is inclined to interfere with the condition imposed by the court below directing the petitioner to deposit 20% of the compensation amount. The matter has been made over to the IV Additional District and Sessions Judge, Ponneri. Hence, the matter is remanded back to the learned IVth Additional District and Sessions Judge, Ponneri. The learned District and Sessions Judge, Ponneri shall deal with the grounds that have been raised by the petitioner, after affording opportunity to the respondent and pass orders strictly in accordance with law, as directed by this Court in CrI.OP.No.947 of 2024. This exercise shall be completed within a period of four weeks from the date of receipt of copy of the order.



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This criminal original petition is disposed of in the above terms.

19.02.2024

Speaking Order/Non-Speaking Order
Index: Yes/No
Internet: Yes/No
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To
Principal District & Sessions Judge
Tiruvallur.

CRL.O.P No.981 of 2024