



Crl.O.P.No.4108 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.4108 of 2024

Kumar
S/o.A.Natrajan

... Petitioner

Vs.

1. R.Rajkumar
S/o.Ramaswamy

2. The State,
Represented by
Public Prosecutor of Nilgiris,
Udhagamandalam.

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973 praying to set aside and modify the conditions passed in Crl.M.P.No.1263 of 2023 in Crl.A.No.102 of 2023, dated 22.12.2023 on the file of the Court of Sessions Division of the Nilgiris District at Udhagamandalam.

For Petitioner : Mr.A.Bobbli



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ORDER

This petition has been filed challenging one of the condition that was imposed by the Court below by directing the petitioner to deposit 20% of the compensation amount, as a condition for suspension of sentence granted in favour of the petitioner pending Crl.A.No.102 of 2023 by order dated 22.12.2023.

2. Heard the learned counsel for the petitioner and carefully perused the materials available on record.

3. The petitioner was convicted for offence under Section 138 of the Negotiable Instruments Act in S.T.C.No.53 of 2020 by the learned Judicial Magistrate, Coonoor by judgment dated 29.11.2023. The petitioner was sentenced to undergo six months simple imprisonment and to pay the cheque amount of Rs.25,00,000/- as compensation and in default to suffer two months simple imprisonment.



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4. Aggrieved by the above judgment, the petitioner filed an appeal before the Court below in Crl.A.No.102 of 2023. The petitioner also filed application seeking for suspension of sentence in Crl.M.P.No.12623 of 2023. The Court below allowed the application by order dated 22.12.2023, but however, a direction was given to the petitioner to deposit 20% of the compensation amount within a period of two months as a condition for the suspension of sentence. This condition has been put to challenge in the present petition.

5. It is seen from records that the petitioner had taken a specific defence that he had already repaid back a sum of Rs.8,50,000/- to the complainant. A specific question was also put to the complainant when he was examined as PW1 before the Court below and the complainant also admitted this fact. According to the petitioner, this issue was not properly dealt with by the trial Court and it was also taken as a ground before the Appellate Court. Therefore, according to the petitioner, the Court below



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ought to have considered this issue before directing the petitioner to deposit the maximum compensation amount of 20% as a condition for suspension of sentence.

6. This Court already had an occasion to deal with the issue in Crl.O.P.No.947 of 2024 and the relevant portion is extracted herein:

"8. This Criminal Original Petition is disposed of in the above terms.

Before drawing the curtains in this case, this Court 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



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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."

7. This Court had directed that in all cases where the Appellate Court wants to impose the maximum condition of depositing 20% of the compensation amount under Section 148 of the Negotiable Instruments Act, the grounds must be considered and reasons must be assigned. The same has not been done in the present case and the specific defence that has been taken by the petitioner has not been considered.

8. In view of the above, the condition imposed by the Court below directing the petitioner to deposit 20% of the compensation amount (Rs.5,00,000/-) is hereby set aside. The matter is remanded back to the file of the Sessions Division Court, Nilgiris, Udhagamandalam and there shall be a direction to the Court below to take note of the defence that has been



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taken by the petitioner and the grounds raised in this criminal appeal and pass appropriate orders under Section 148 of Negotiable Instruments Act within a period of four weeks from the date of receipt of a copy of the order.

9. This Criminal Original Petition is disposed of with the above direction.

27.02.2024

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

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To

1. The Sessions Division Judge,
Nilgiris District,
Udhagamandalam.
2. The Public Prosecutor,
Nilgiris,
Udhagamandalam.
3. The Public Prosecutor,
High Court,
Madras.



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N.ANAND VENKATESH, J.

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