



WEB COPY



Criminal Original Petition No.5053 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Criminal Original Petition No.5053 of 2024

and

Crl.M.P.No.3654 of 2024

J.Nagendran
S/o.Jagannathan

... Petitioner

Vs.

C.Nanthini Devi
D/o.S.K.Chittibabu

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for the entire records on the file of the learned Principal District and Sessions Judge at Tiruvallur insofar as it relates to the order dated 09.01.2024 made in Crl.M.P.No.158 of 2024 in Crl.A.No.3 of 2024 and set aside the condition imposed on the petitioner to deposit 20% of the compensation amount within a period of 60 days by allowing this petition.

For Petitioner : Mr.N.S.Suganthan



Criminal Original Petition No.5053 of 2024

WEB COPY

ORDER

This Criminal Original Petition has been filed challenging one of the condition imposed by the Court below while suspending the sentence imposed against the petitioner u/s.138 of the Negotiable Instruments Act, by directing the petitioner to deposit maximum 20% of the compensation amount within a period of 60 days.

2. This Court carefully considered the submissions made by learned counsel for petitioner and the materials available on record.

3. The petitioner has taken a very specific stand before the trial Court that the petitioner never had any financial dealings with the complainant. It is the mother of the petitioner, who had taken three chits from the complainant and the cheque that was given as security by the petitioner has been misused. The petitioner has also put several questions to PW-1 in this regard during cross-examination and has elicited certain answers. Hence, the basic defence that has been taken by the petitioner is that he has denied the very existence of a legally enforceable liability from the petitioner to the complainant. The grievance of the petitioner is



Criminal Original Petition No.5053 of 2024

that this defence was not taken into consideration by the appellate Court and the appellate Court had mechanically directed the petitioner to deposit maximum amount of 20% of the compensation. Learned counsel for petitioner also brought to the notice of this Court the order passed by this Court in CrI.O.P.No.947 of 2024 dated 22.01.2024.

4. The order that was relied upon by the learned counsel for petitioner makes it clear that the appellate Court cannot mechanically impose the maximum deposit of 20% of the compensation amount without assigning proper reasons and without considering the defence taken by the accused person, who had come on appeal. Considering the materials placed before this Court and the defence taken by the petitioner and also the defence that was let in before the trial Court, the Court below ought to have considered the same before imposing maximum 20% deposit of compensation amount against the petitioner. In view of the same, the condition imposed by the Court below directing the petitioner to deposit 20% of the compensation amount is hereby set aside. The matter is remanded back to the file of learned Principal District and Sessions Judge, Tiruvallur. The learned Judge shall deal with



WEB COPY



Criminal Original Petition No.5053 of 2024

N.ANAND VENKATESH, J

gm

the defence taken by the petitioner and the grounds raised in the appeal and shall pass appropriate orders by assigning proper reasons u/s.148 of the Negotiable Instruments Act within a period of four (4) weeks from the date of receipt of a copy of this order with respect to deposit of the compensation amount as a condition for the suspension of sentence.

This Criminal Original Petition is disposed of with the above direction. Consequently, connected miscellaneous petition is closed.

04.03.2024

Speaking Order/Non-speaking Order

Index : Yes/No

Neutral citation: Yes/No

gm

To

The Principal District and Sessions Judge,
Tiruvallur.

Criminal Original Petition No.5053 of 2024