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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CrI.O.P. No.5916 of 2024

G.Udayaraj

...Petitioner

Vs

T.Saravanan

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to set aside and modify the condition passed in M.P.No.1 of 2023 in C.A.307 of 2023 dated 29.9.2023 on the file of the Principal District and Sessions Judge, Coimbatore.

For Petitioner : Mr.V.Anandhamoorthy

ORDER

This criminal original petition has been filed challenging one of the condition that was imposed by the Court below while suspending the sentence imposed by the Trial Court for offence under Section 138 of the Negotiable Instruments Act, wherein, the petitioner was directed to deposit a sum of Rs.5,43,000/- towards part of the compensation amount on or before 14.11.2023.



WEB COPY 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 and was sentenced to undergo six months simple imprisonment and to pay compensation of Rs.27,15,000/- The petitioner aggrieved by the same, filed an appeal before the Court below which was taken on file in CrI.A.No.307 of 2023. The petitioner also filed an application seeking for suspension of sentence. The Court below ordered the petition and suspended the sentence on 29.09.2023. While suspending the sentence, the Court below imposed a condition to the effect that the petitioner should deposit a sum of Rs.5,33,000/- The petitioner is aggrieved by this condition imposed by the Court below.

4. The main defence that has been taken by the petitioner is that there is a complete mismatch between the liability that was claimed by the respondent/complainant and the amount that was entered in the cheque. The next defence was that the suit was filed and an administrator was also



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appointed in order to determine the liability. These defence taken by the petitioner was also taken as a ground in the appeal. The petitioner for this purpose has also relied upon the cross-examination of PW1.

5. In the considered view of this Court, the grounds raised by the petitioner ought to have been considered by the Court below before imposing the condition for deposit of the maximum 20% of the compensation amount. This position of law has been made clear by the order passed by this Court reported in **2024 1 MWN (Crl) DCC 86**.

6. In view of the above, the condition imposed by the Court below directing the petitioner to deposit a sum of Rs.5,43,000/- towards part of the compensation is hereby set aside and the matter is remanded back to the learned file of the Principal District and Sessions Judge, Coimbatore. The learned Principal District and Sessions Judge, Coimbatore, shall deal with the grounds raised by the petitioner and pass an order by assigning reasons, within a period of four weeks from the date of receipt of copy of this order.



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N.ANAND VENKATESH, J

SSR

7.This criminal original petition is disposed of with the above directions.

12.03.2024

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
SSR

To

- 1.The Principal District and Sessions Judge, Coimbatore.
- 2.The Public Prosecutor,
High Court, Madras.

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