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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P No.6499 of 2024

Govindan

...Petitioner

Vs.

Vetha Singh

...Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to Crl.MP.6156 of 2023 in C.A.No.44 of 2020 passed by III Additional District and Sessions Judge, Coimbatore Division at Coimbatore and set aside the order dated 24.11.2023 by allowing this petition .

For Petitioner : Mr.K.Balasubramaniam

ORDER

This criminal original petition has been filed challenging the order passed by the Court below in Crl.M.P.No.6156 of 2023 dated 24.11.2023, wherein, the permission sought for by the petitioner for refund of Rs.17,40,000/- (Rupees Seventeen Lakhs and Forty Thousand only) was dismissed by the Court below.



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

3. The petitioner was convicted by the Trial Court for offence under Section 138 of the Negotiable Instruments Act in C.C.No.199 of 2016. The petitioner filed an appeal before the Sessions Court in C.A.No.44 of 2020. Pending the appeal, he also filed an application for suspension of sentence in CrI.MP.No.205 of 2024. The sentence was suspended by imposing conditions. One of the condition was that the petitioner must deposit a sum of Rs.17,40,000/- (Rupees Seventeen Lakhs and Forty Thousand only). The petitioner also deposited this amount. Ultimately, the criminal appeal was allowed and the petitioner was acquitted from the charges under Section 138 of the Negotiable Instruments Act.

4. In view of the above, the petitioner sought for the refund of some of Rs.17,40,000/- (Rupees Seventeen Lakhs and Forty Thousand only) deposited by him at the time of suspension of sentence. The Court below dismissed the application on the ground that the respondent has filed further appeal before this Court and hence, during the pendency of the appeal before this Court, the Court below cannot grant the permission sought for by the petitioner. Aggrieved by



the same, the present criminal original petition has been filed before this Court.

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5. In the considered view of this Court, the criminal appeal filed by the respondent is now pending before this Court in C.A.No.870 of 2023. In view of the same, it is left open to the petitioner to file an application seeking for the refund of the amount in the pending appeal in C.A.No.870 of 2023. When the appeal is pending before this Court, the Court below cannot entertain the application seeking for refund of the amount and this Court does not find any illegality in the order passed by the Court below. Therefore, except giving liberty to the petitioner, no further orders can be passed in this petition.

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

18.03.2024

Index: Yes/No
Speaking order/Non-speaking Order
Neutral Citation: Yes/No
ssr



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N.ANAND VENKATESH, J

SSR

To

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

CRL.O.P No.6499 of 2024

18.03.2024