



Crl.OP.No.17765 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.No.17765 of 2024

and

Crl.MP.No.10548 of 2024

Geethabai

... Petitioner

Vs.

D.Chandrasekaran

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records and set aside the impugned order dated 30.05.2023, in Crl.MP.No.3371 of 2024 in C.A.No.33 of 2024 on the file of the Principal District and Sessions Judge, Cuddalore, consequently to waive the payment of 20% Cheque amount in the credit of STC No.1048 of 2014 on the file of the learned trial Court, the Judicial Magistrate No.1 at Vridhachalam, as a pre-requisite condition.

For Petitioner : Mr.V.Ramana Reddy

ORDER

This Criminal Original Petition is filed challenging the order



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passed by the lower Appellate Court imposing condition to deposit 20% of the compensation cheque amount for suspending the sentence pending appeal.

2. The learned counsel for the petitioner submits that the trial Court has erroneously convicted the petitioner on presumption and assumption inspite of discharging the burden rebutting the statutory presumption against the drawer. He further submits that the condition to deposit 20% of the compensation cheque amount is without any reasoning. He also submits that the Hon'ble Supreme Court has clarified that Section 148 of Negotiable Instruments Act is not a mandatory provision, but only an enabling provision. Therefore, mechanical order directing the petitioner to deposit 20% of the compensation cheque amount is perverse and contrary to the dictum of Hon'ble Supreme Court.

3. On perusal of the records, this Court finds that the complaint under Section 138 of Negotiable Instruments Act was taken cognizance in the year 2014. The trial Court was able to complete the trial and delivered judgement after ten years. The trial Court on perusing the records and evidence has held that the petitioner/accused guilty and



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sentenced him to undergo six months simple imprisonment and directed the petitioner to pay twice the cheque amount as compensation after defraying Rs.15,000/- paid pending disposal of the complaint.

4. The lower Appellate Court while considering the application for suspension of sentence observed that there are sufficient reasons to suspend the sentence and suspended the sentence on condition that 20% of the cheque amount to be paid. Section 148 of Negotiable Instruments Act enables the Appellate Court to impose condition to deposit 20% of compensation amount. The trial Court has awarded twice the cheque amount as compensation amount. Whereas the lower Appellate Court has imposed condition to deposit 20% of Cheque amount only.

5. Therefore, though the lower Appellate Court has not said expressly about the satisfaction to impose the condition, the condition *per se* clearly shows that there is application of mind by the trial Court. The lower Appellate Court directed only 20% of the cheque amount to be deposited and not twice the cheque amount which has been ordered to be paid as compensation by the trial Court. Hence, this Court finds no perversity or illegality in the order passed by the lower Appellate Court.



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6. Section 148 of Negotiable Instruments Act provides 60 days time to deposit the compensation amount. However, the impugned order has not mentioned the last date for depositing the compensation amount. The order to deposit was passed on 30.05.2024. The 60 days time will expire on 30.07.2024, since the petitioner has approached this Court before expiry of the period and the matter is pending for some time, the 20% of the cheque amount i.e., Rs.1,20,000/- (cheque issued for Rs.6,00,000/-) to be paid by the petitioner on or before **30.08.2024**.

7. With this direction, Criminal Original Petition is disposed of. Consequently, the connected miscellaneous petition is closed.

26.07.2024

Vv

To

1. The Principal District and Sessions Judge,
Cuddalore,
2. The Judicial Magistrate-I,
Vridhachalam
3. The Public Prosecutor,



High Court of Madras.

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Dr.G.JAYACHANDRAN,J.

Vv

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