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Crl.O.P.No.17144 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2024

CORAM

THE HONOURABLE DR.JUSTICE **G.JAYACHANDRAN**

Crl.O.P.No.17144 of 2024

K.Gunasekaran

... Petitioner

Vs.

A.Velayutham

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to set aside the condition No.1 that 'the petitioner is directed to deposit 20% of the compensation amount i.e., Rs.1,00,000/- before the trial Court by the order of the Additional District and Sessions Judge, Chengalpattu in Crl.M.P.No.1 of 2024 in Crl.A.No.28 of 2024 dated 06.06.2024 to set aside the condition.

For Petitioner : Mr.J.Franklin

ORDER

The petitioner herein is the appellant in Crl.A.No.28 of 2024 on the file of the the Additional District and Sessions Judge, Chengalpattu. The said appeal filed against the judgment of conviction and sentence imposed on the appellant for an offence under Section 138 of Negotiable Instruments Act.

2. Against the trial Court judgment, the petitioner has preferred



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the above appeal and also sought for suspension of sentence. The lower appellate Court while entertaining the application for suspension of sentence has imposed condition to deposit 20% of the compensation amount i.e., R.1,00,000/- within 30 days from 06.06.2024. Challenging the said condition, the present Criminal Original Petition is filed.

3. The learned counsel appearing for the petitioner submits that under Section 148 of N.I.Act, deposit of 20% of the compensation amount is not mandatory condition. For imposing condition to deposit 20% of compensation amount, the lower appellate Court ought to have assigned the reason.

4. This Court on perusing the records finds that the complaint under Section 138 of N.I.Act was instituted on 25.09.2019. The trial Court convicted the petitioner herein vide judgment dated 15.02.2024. The appeal was taken on file on 14.03.2024. Application for suspension of sentence disposed on 06.06.2024 with condition as stated above. The judgment of the Hon'ble Supreme Court in ***Jamboo Bhandari Vs. M.P.State Industrial Development Corporation Ltd. & Ors*** reported in



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2023 LiveLaw (SC) 776 has clarified the expressions used in Section 148

of N.I.Act and has stated that the appellate Court in appropriate case which is an exceptional in nature can suspend the sentence without imposing condition. This judgment is relied by the learned counsel for the petitioner. However, there is no material to consider that this case is an exceptional case to exercise the discretionary power of the Court. As narrated above the case is pending since 2019 and the condition imposed to suspend the sentence is in accordance with law.

5. Since there is no perversity or illegality in the said order, this Criminal Original Petition is dismissed. However, this Court is of the view that time to deposit 20% of the compensation amount may be extended for further period of one month from today. Accordingly, the petitioner is given liberty to deposit 20% of the compensation amount on or before 23.08.2024.

23.07.2024

Index : Yes/No
Neutral Citation : Yes/No
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Dr.G.JAYACHANDRAN,J.



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The Additional District and Sessions Judge, Chengalpattu

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