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CrI.O.P.No.18989 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:08.08.2024

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

CrI.O.P.No.18989 of 2024

and

CrI.M.P.No.11221 of 2024

1.M/s Indian Power Projects Limited,
Rep.by its Director Shri T.Mohan,
Suite-D, first Floor, Sun Plaza Complex,
No.19, GN Chetty Road,
Chennai 600 017.

2.Shri T.Mohan

3.Shri.M.Anand

.. Petitioners

/versus/

Shri.V.Gajarajan

.. Respondent

Criminal Original Petition has been filed under Section 528 of BNSS 2023, to set aside and modify the condition imposed in the order dated 30.07.2024 in CrI.M.P.No.20735 of 2024 in CrI.M.P.No.14639 of 2024 in C.A.No.404 of 2024 on the file of the Principal Sessions Judge Court at Chennai-104.



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For Petitioners :Mr.P.Selvaraj

ORDER

This petition is filed to modify the order passed by the Principal Sessions Judge in Crl.M.P.No.14639 of 2024 for suspension of sentence with condition.

2. The short fact involved in this matter is that S.T.C.No.2032 of 2021 was instituted before the Metropolitan Magistrate, FTC-II, Egmore, Chennai in respect of dishonour of cheques for totally a sum of Rs.45,00,00,000/-. After examination of the witnesses, the trial Court found the accused guilty, convicted and sentenced to undergo 6 months SI and to pay compensation of Rs.45 crores being the cheques amount. Against the order of conviction and sentence dated 23.05.2024, the petitioner/accused has preferred an appeal before the Principal Sessions Judge at Chennai in Crl.A.No.404 of 2024.



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3. On considering the grounds of appeal and suspension of sentence petition, the lower appellate Court vide order dated 29.05.2024 in Crl.M.P.No.14639 of 2024 suspended the sentence on condition to deposit 20% of the compensation amount before the trial Court within a period of 60 days from the date of that order. The petitioner herein was not able to deposit the conditional amount. Hence, he sought for extension of time in Crl.M.P.No.20735 of 2024. Considering the request, the lower appellate Court has extended the time by one week for deposit of the conditional amount.

4. The present petition is filed under Section 528 of BNSS 2023 before this Court on the ground that while imposing condition to deposit the amount, the lower appellate Court has failed to consider the judgment of the Hon'ble Supreme Court in *Jamboo Bhandari v. M.P.State Industrial Development Corporation Ltd., and others* in *Crl.A.No(s).2741 of 2023 dated 04.09.2023*.



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5. This Court at the outset, is of the view that having sought for extension of time to pay the compensation amount, the petitioner has lost his right to question the condition to deposit 20% of the cheques amount which has been passed inconsonance with the Section 141 of NI Act. The Judgment of the Hon'ble Supreme Court cited supra by the petitioner is in respect of passing an order mechanically to deposit 20% of compensation amount, while entertaining the petition for suspension of sentence. The Hon'ble Supreme Court had made it clear that it is not a mandatory provision that 20% of the compensation amount must be imposed as condition, while suspending the sentence. It is always left to the discretion of the lower appellate Court, based on the merits of the case, to reduce the quantum of conditional amount from 20% or even totally exempted.

6. The case in hand, this Court finds that the dispute been agitated in the Court of law since 2021 and trial has completed on 23.05.2024. Since there is no reason to reduce the compensation amount



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below 20%, the lower appellate Court has directed the accused to pay 20% of the compensation amount within 60 days and further extended the time by one week on the petition of the accused.

7. This Court finds no reason to interfere with the order passed by the lower appellate Court to make any further modification. Hence, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is also closed.

08.08.2024

Index:yes/no
Neutral Citation:yes/no
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To

The Principal Sessions Judge Court at Chennai-104.



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DR.G.JAYACHANDRAN,J.

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