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Crl.OP.No.20230 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.No.20230 of 2024

A.Ravi

... Petitioner

Vs.

Moonstar lines Pvt Ltd.,
Rep by Mohammed Ibrahim
H-Block 5th street,
H-33, Anna Nagar, East
Chennai – 102.

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 of BNSS Act, 2023 to modify the condition imposed in Crl.MP.No.17931/2024 in Crl.A.No.360 of 2024 on the file of Principal Sessions Court, Chennai on 02.07.2024 (further petitioner shall deposit 10% of the compensation amount to the credit of the CC.No. on the file of the trial court within sixty days from the date of the order) in the interest of justice.

For Petitioner : No appearance



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ORDER

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2. The petitioner is the appellant before the Sessions Court, Chennai. Being convicted and sentenced for offence under Section 138 of Negotiable Instruments Act. The petitioner has preferred an appeal and the same is pending.

3. Pending appeal, the petitioner sought for suspension of sentence, the lower Appellate Court considering the nature of the case has imposed one of the conditions that to deposit 10% of the compensation amount within a period of sixty days. The complaint is for issuing the cheque for Rs.6,32,110/-. The said cheque was dishonoured. Hence, the trial Court has convicted the petitioner to pay a fine of Rs.5,000/- and compensation of Rs.6,32,110/- for suspension of the said condition as a pre condition, the lower Court has directed the petitioner to deposit 10% of the compensation amount.

4. Aggrieved by the said condition, the criminal petition is filed on the ground that the order of the trial court convicted the petitioner is not on merits and therefore, the petitioner has every chance of success in the appeal while so the condition to deposit 10% of the compensation



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amount for suspension of sentence is onerous.

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5. On perusing the judgement and the order passed by the Appellate Court in the application for suspension of sentence, this Court finds that the issue related to cheque issued on 01.08.2016 to discharge debt arising out of business transaction. The trial Court has passed judgement of conviction on 05.03.2024 after eight years of the institution of the complaint. In the said circumstances, the Appellate has directed the petitioner to deposit 10% of the cheque amount. Though Section 148 of the Negotiable Instruments Act enables the Appellate Court to impose condition to depositing upto 20% of the cheque amount. The period taken for disposal of the complaint and the reasons for which the debt occurred has warranted the lower Appellate Court to impose condition of depositing 10% of the cheque amount pending disposal of the appeal. This Court finds no error or perversity in the said order to interfere under Section 528 of BNSS Act. Hence petition stands dismissed

22.08.2024

Vv

Dr.G.JAYACHANDRAN,J.



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