



WEB COPY



CrI.O.P.No.21407 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2024

CORAM

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

CrI.O.P.No.21407 of 2024

and

CrI.M.P.No.12258 of 2024

Maheswari

... Petitioner

Vs.

Saleem

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C./ 528 BNSS, pleaded to call for the records pertaining to the order dated 12.08.2024 in CrI.M.P.No.4454 of 2024 in CrI.A.No.139 of 2024 on the file of the learned District & Sessions Judge, Thiruvallur and set aside the same in so far as in regard to condition “The petitioner/appellant and accused is directed to deposit 20% of the compensation amount before the trial Court to the credit of STC.No.198/2019 within the period of 90 days:”

For Petitioner : Mr.R.Selvakumar

ORDER

The petitioner herein is an accused in a private complaint taken on file for offence under Section 138 of Negotiable Instruments Act. The Judicial Magistrate has taken the complaint as S.T.C.No.198 of 2019 and



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after examination of witnesses found the accused guilty of issuing three cheques totally for a sum of Rs.12,00,000/- without sufficient fund. The petitioner was sentenced to undergo 6 months Simple Imprisonment and to pay the compensation of Rs.12,00,000/- within a period of one month.

2. Being aggrieved by the judgment of conviction and sentence, the petitioner has preferred appeal before the Principal District and Sessions Judge, Thiruvallur. Her appeal taken on file in C.A.No.139 of 2024. Along with appeal, the petitioner has filed application for suspension of sentence pending criminal appeal.

3. The lower appellate Court, on considering the merits of the appeal and other facts, has granted suspension of sentence on condition to deposit 20% of the compensation amount within a period of 60 days. The said order came to be passed on 12.08.2024. Being aggrieved by the condition imposed, the present petition is filed.

4. The learned counsel appearing for the petitioner /accused submits that right from the inception of causing statutory notice and



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during the testimony before the Court, the complainant not established the fact about the date of borrowing and legally enforceable debt. In fact, the complainant filed the complaint against the petitioner as well as her husband Sekar, though her husband was not a signatory to the cheque. Subsequent to the intervention of the Court, the complaint against her husband was quashed. Since the falsehood of the complainant could be established in the trial, the condition to deposit 20% of the compensation amount has to be set aside.

5. This Court, on considering the submissions made by the counsel as well as the documents which has been relied by the trial Court for holding the petitioner guilty, is of the view that the condition to deposit 20% of the compensation amount does not appear to be onerous or perverse. The lower appellate Court has considered the facts of the case and has recorded that there is no exceptional reason for not imposing condition or to reduce the percentage. The reason now stated by the learned counsel for the petitioner as a ground of exception not

Dr.G.JAYACHANDRAN,J.

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convincing to this Court. Hence this Criminal Original Petition stands



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dismissed. Consequently, the connected Criminal Miscellaneous Petition
is closed.

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Index : Yes/No

Neutral Citation : Yes/No

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To

The District & Sessions Judge, Thiruvallur

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