



Crl.O.P.No.1052 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **23.01.2024**

CORAM

THE HON'BLE MR.JUSTICE **N.ANAND VENKATESH**

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Shantilal Betala

... Petitioner

Vs.

M/s.Paceman Finance India (P) Ltd.,
Rep. by its Director Mr.Rahul Kumar
No.936, Poonamallee High Road,
Crescent Court, Suit NO.21,
Purasawalkam, Chennai-600084.

...Respondent

Criminal Original Petition under Section 482 of the Criminal Procedure Code to set aside and modify the order of condition of deposit of 20 percentage of compensation amount to the credit of C.C. Passed in Crl.M.P.No.25780/2022 in C.A.No.380 of 2022 on 23.12.2022, by the Principal Sessions court, Chennai.

For Petitioner : Mr.Ilayaraj Kandasamy

ORDER

This Criminal Original petition has been filed



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challenging the written endorsement dated 08.08.2023 made by the Court below by not entertaining the application filed by the petitioner seeking for modification of the condition imposed by the Court below by directing the petitioner to deposit 20% of the compensation amount as a condition for suspension of sentence.

2. This Court has carefully considered the submissions made by the learned counsel for the petitioner and the materials available on record.

3. In the instant case, the Trial Court while imposing the sentence, had directed the petitioner to pay compensation which was double the cheque amount. The Court below while suspending the sentence directed the petitioner to deposit 20% of the compensation amount. The petitioner was not in a position to deposit such a huge amount since twice the cheque amount was to the tune of Rs.1,63,20,000/- and 20% will work out to Rs.33,00,000/-. The petitioner filed a modification petition and the Court below did not entertain the same and it was returned through endorsement dated 08.08.2023. Aggrieved by the same, the present Criminal Original



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petition has been filed before this Court.

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4. When the Court directs the petitioner / accused to deposit 20% of the compensation amount, the Court has to assign reasons as to why the petitioner is directed to deposit the entire 20% compensation without considering any reduction in the percentage. The Apex Court in *Jamboo [Bhandari Vs. M.P.State Industrial Development Corporation Limited]* and others reported in **2023 3 MWN DCC 104** has held that deposit of 20% is not an absolute rule and it can be reduced or even exempted in exceptional cases by assigning reasons. In view of the same, the Court below ought to have entertained the modification petition and considered the same on its own merits.

5. In the light of the above discussion, there shall be a direction to the petitioner to represent the modification petition before the Court below and the Court below shall deal with the same in the light of the judgement of the Apex Court referred supra. The order shall be passed within a period of two weeks from the date of receipt of a copy of the re-presentation.



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6. This Criminal original petition is disposed of with the above directions.

rka

23.01.2024



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N.ANAND VENKATESH,J

rka

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No

To

The Principal Sessions court,
Chennai.

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