



CrI.O.P.No.26384 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.O.P.No.26384 of 2024 and

CrI.M.P.No.14658 of 2024

S.Shanmugam

... Petitioner

Vs.

M/s.Cool Navy

Rep. by its Prop.

Ramalingam Mohana

W/o.Ramalingam

Rep. by Power Agent Ramalingam

No.3/A, Gresh Garden 5th Lane

Royapuram, Chennai - 600 013.

... Respondent

Prayer: Criminal Original Petition filed under Section 528 of B.N.S.S. to set aside the condition imposed in Para 7 of the impugned order of the Principal Sessions Court at Chennai dated 19.09.2024 in CrI.M.P.No.26217/2024 in CrI.A.No.696 of 2024.

For Petitioner : Mr.G.Mohana Krishnan



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ORDER

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This Criminal Original Petition has been filed by the petitioner to set aside the condition imposed in Paragraph No.7 of the impugned order passed by the Principal Sessions Court, Chennai dated 19.09.2024 in CrI.M.P.No.26217 of 2024 in CrI.A.No.696 of 2024 in respect of deposit of 20% of the compensation amount to the credit of S.T.C.No.3827 of 2022.

2. The case of the petitioner is that the petitioner was convicted for the offence under Section 138 of N.I. Act by the learned Metropolitan Magistrate, FTC-IV, George Town, Chennai, in S.T.C.No.3827 of 2022 dated 21.08.2024. Aggrieved by the same, the petitioner preferred an appeal in C.A.No.696 of 2024 before the Principal Sessions Court, Chennai, and he also filed an application in CrI.M.P.No.26217 of 2024 to suspend the sentence pending disposal of the appeal. The learned Sessions Judge, by order dated 19.09.2024 suspended the sentence of imprisonment imposed upon the petitioner on condition to execute a bond for a sum of Rs.10,000/- with two sureties each for



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a like sum to the satisfaction of the learned Magistrate concerned and also

directed to deposit 20% of the compensation amount to the credit of the S.T.C.

number. The learned counsel for the petitioner submitted that, insofar as the

condition to deposit 20% of the compensation amount is concerned, the

petitioner is having difficulties in mobilizing the funds and thereby, the present

petition is filed to set aside the condition regarding deposit of 20% of

compensation amount to the credit of S.T.C. number.

3. The notice taken on the respondent has been returned unserved as respondent left.

4. Heard the learned counsel for the petitioner and perused the impugned order.

5. In Paragraph No.5 of the impugned order, the learned Sessions Judge has clearly stated the reasons for imposing such a condition which reads follows;



5. *As per Section 148 of N.I. Act (Amendment Act), 2018, the Appellate Court may order the Appellant to deposit such sum which shall be a minimum of Twenty percent of the fine or Compensation awarded by the Trial Court. In the above provision, it is clearly stated that the amount shall be deposited within 60 days from the date of judgment. As already stated supra, the petitioner/appellant/accused was ordered to undergo nine months S.I. and in these circumstances, it may not be right to hold that the petitioner has to serve the sentence during the pendency of the appeal.*

6. The learned Sessions Judge has only followed the statutory provisions and imposed such a condition. Hence, this Court is not inclined to interfere with the order passed by the learned Sessions Judge by invoking Section 428 Cr.P.C./528 B.N.S.S.

7. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

8. However, the time period mentioned in the impugned order is extended till 29.11.2024 and the petitioner is directed to comply with the



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conditions imposed in CrI.M.P.No.26217 of 2024 in CrI.A.No.696 of 2024

dated 19.09.2024 by the learned Principal Sessions Judge, Chennai on or

before 29.11.2024 and no further time will be granted.

13.11.2024

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

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Note: Issue Order Copy on 15.11.2024

To

The Principal Sessions Court

Chennai



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P.VELMURUGAN,J.

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