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CrI.O.P.No.28822 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.O.P.No.28822 of 2024 and

CrI.M.P.No.16077 of 2024

P.Shyamala Devi

... Petitioner

Vs.

Arvind Bagrecha

... Respondent

Prayer: Criminal Original Petition filed under Section 528 of B.N.S.S. to modify the condition to deposit 20% of the compensation/cheque amount imposed in the order dated 05.09.2024 passed in CrI.M.P.No.24927 of 2024 in CrI.A.659 of 2024 on the file of the XVII Additional Sessions Court by allowing this petition.

For Petitioner : Mr.P.Rajkumar

ORDER

This Criminal Original Petition is filed to modify the condition regarding deposit of 20% of the compensation/cheque amount, imposed on the



CrI.O.P.No.28822 of 2024

petitioner vide order dated 05.09.2024 passed in CrI.M.P.No.24927 of 2024 in CrI.A.659 of 2024 on the file of the XVII Additional Sessions Court, Chennai.

2. The case of the petitioner is that the petitioner was convicted for the offence under Section 138 of the Negotiable Instruments Act, vide Judgement dated 06.08.2024 in C.C.No.2053 of 2018 on the file of the Metropolitan Magistrate, FTC-IV, George Town, Chennai against which, she preferred an appeal in CrI.A.No.659 of 2024 on the file of the XVII Additional Sessions Court, Chennai along with a petition in CrI.M.P.No.24927 of 2024 to suspend the sentence. The appellate Court, while suspending the sentence, imposed a condition directing the petitioner to deposit 20% of the total compensation amount to the credit of C.C. number. Challenging the said order, the present petition is filed before this Court.

3. The learned counsel for the petitioner submitted that the Hon'ble Apex Court, *in Jamboo Bhandari Vs. M.P. State Industrial Development Corporation Ltd. and others reported in 2023 (3) MWN (Cr.) DCC 104 (SC)*



CrI.O.P.No.28822 of 2024

has held that, deposit of 20% of the compensation amount is not an absolute rule and it can be reduced or even exempted in exceptional cases by assigning reason. He also relied on the judgment of the Kerala High Court in ***Baiju Vs. State of Kerala reported in 2023 (3) MWN (Cr.) DCC 140 (Ker.)*** and also the order of this Court in ***CrI.O.P.No.947 of 2024 dated 22.01.2024 (C.R.Balasubramanian Vs. P.Eswaramoorthi)***.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. Since no adverse order is being passed against the respondent, notice to the respondent is dispensed with.

6. The judgments referred to by the learned counsel for the petitioner are not applicable to the facts of the present case on hand and neither they are declaring law nor it is written by the Hon'ble Supreme Court by bounding nature to follow the decision.



CrI.O.P.No.28822 of 2024

7. Further, the signature found in the cheque has been admitted by the petitioner. The other things are matter for appeal. The grounds taken by the petitioner to be established before the appellate Court and the same cannot be decided by this Court while exercising its power under Section 528 of B.N.S.S. This Court does not find any exception to set aside the order passed by the appellate Court. The appellate Court has only invoked the statutory provision under Section 148 of the Negotiable Instruments Act and there is no arbitrariness or perversity in the impugned order passed by the appellate Court.

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

18.11.2024

Index : Yes / No
Speaking Order : Yes / No
Neutral Citation Case : Yes/No
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CrI.O.P.No.28822 of 2024

To

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The XVII Additional Sessions Court
Chennai



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CrI.O.P.No.28822 of 2024

P.VELMURUGAN. J.

Ksa-2

CrI.O.P.No.28822 of 2024

18.11.2024