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Crl.OP.No.128 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.128 of 2024

R.Maheswari
W/o.Late Ramesh

... Petitioner

Vs.

S.Shanmugam
S/o.Saminathan

... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C.,
pleaded to set aside the order passed in Crl.M.P.No.1 of 2023 in
Crl.A.No.98 of 2023 dated 20.11.2023 by Principal District and Sessions
Judge, Tiruvannamalai.

For Petitioner : Mr.D.N.Dhurgasha

ORDER

This Criminal Original Petition has been filed challenging the
condition imposed by the Court below directing the petitioner to deposit
20% of the compensation awarded by the trial Court while suspending
the sentence in Crl.M.P.No.1 of 2023 in Crl.A.No.98 of 2023, dated
20.11.2023.



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2. The petitioner was convicted for an offence u/s.138 of the Negotiable Instruments Act and was sentenced to undergo six months simple imprisonment and to pay compensation of Rs.30,00,000/-, in default, to undergo one month simple imprisonment. Aggrieved by the same, the petitioner filed an appeal before the Principal District and Sessions Court, Tiruvannamalai, in Crl.A.No.98 of 2023. The petitioner also filed a petition seeking suspension of sentence pending the appeal. This petition was ordered on 20.11.2023 with a condition that the petitioner must deposit 20% of the compensation amount, which comes to Rs.6,00,000/- as required u/s.148(1) of the Negotiable Instruments Act.

3. The above condition imposed by the Court below has been challenged in this petition on the ground that the petitioner had a very strong case in the appeal and the Court below had mechanically imposed an onerous condition against the petitioner without assigning any reasons.



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

5. The main ground that was taken by learned counsel for petitioner is that the petitioner had issued the cheque in the name of one Kumar as a security for arranging loan and this cheque was misused by the respondent. According to the petitioner, she did not have any transaction with the respondent.

6. The above ground that was raised by learned counsel for petitioner was dealt with by the trial Court in paragraph No.8.24 of the judgment. The trial Court found that on a perusal of Ex.P1 - cheque, the name of the respondent was mentioned and the letter 'h' was striked off and the petitioner had endorsed her signature for that correction. Under such circumstances, the trial Court found that the petitioner had specifically issued the cheque only in the name of the respondent and that the stand taken by the petitioner as if she had no transaction with the respondent was unsustainable.



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7. The lower appellate Court had taken into consideration the findings of the trial Court and had thought it fit to impose a condition on the petitioner to deposit 20% of the compensation amount. Such condition imposed by the lower appellate Court does not suffer any illegality and it does not require the interference of this Court.

8. In the light of the above discussion, there shall be a direction to the petitioner to deposit 20% of the compensation amount within a period of six (6) weeks from today. The suspension of sentence granted by the lower appellate Court shall stand extended for a period of six months. Depending upon the compliance of the order, the lower appellate Court shall pass consequential order after the expiry of six months.

This Criminal Original Petition is disposed of with the above direction.

10.01.2024

Speaking Order/Non-speaking Order

Index : Yes/No

Neutral citation: Yes/No

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To

The Principal District and Sessions Judge,
Tiruvannamalai.



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N.ANAND VENKATESH, J.

gm

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