



CRL.OP.(MD). No. 5039 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.11.2024

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.OP.(MD). No. 5039 of 2023

and

CRL.MP.(MD). No. 4465 of 2023

Sankar @ Sankarsubbu

... Petitioner/Appellant/Accused

Vs.

Arumugapandi @ Arumugapandia

...Respondent/Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to relax the condition imposed in Crl.M.P. No. 850 of 2023 dated 03.02.2023 in C.A. No. 14 of 2023 on the file of the Principal Sessions District Judge, Tuticorin, Tuticorin District.

For Petitioner : Mr.KA.Raamkrishnan

ORDER

This petition has been filed challenging the condition imposed by the Court below under Section 148 of the Negotiable Instruments Act, 1881, while suspending the sentence imposed against the petitioner by



CRL.OP.(MD). No. 5039 of 2023

the learned Judicial Magistrate, Fast Track Court (Magisterial Level),
Thoothukudi in C.C.No.173 of 2018 by judgment dated 09.01.2023.

2. Heard the learned counsel on either side and perused the materials placed on record.

3. The respondent filed a private complaint against the petitioner for alleged offence under Section 138 of the Negotiable Instruments Act. The learned Fast Track Court (Magisterial Level), Thoothukudi by judgment dated 09.01.2023 made in C.C.No. 173 of 2018 convicted the accused for the offence under Section 138 of the Negotiable Instruments Act and sentenced the accused to undergo one year simple imprisonment and to pay compensation of Rs.6,28,650/- which is equivalent to the cheque amount.

4. Aggrieved by the judgment of the Trial Court, the petitioner filed an appeal before the Principal Sessions Judge, Tuticorin in C.A.No. 14 of 2023. Along with the appeal the petitioner also filed an application seeking for suspension of sentence. The Court below while suspending



CRL.OP.(MD). No. 5039 of 2023

the sentence, invoked its powers under Section 148 of the Negotiable Instruments Act and directed the petitioner to deposit 20% of the compensation amount which works out Rs.1,25,700/-. Aggrieved by this condition, the present petition has been filed before this Court.

5. The main ground that was urged by the learned counsel for the petitioner is that the Court below had mechanically passed an order under Section 148 of the Negotiable Instruments Act and has directed the petitioner to deposit 20% of the compensation amount fixed by the Trial Court. In the instant case, the order was passed by the Court below only based on the undertaking that was given by the petitioner. In view of the same, the Court merely went by the undertaking and there was no occasion for the Court to deal with the merits of the case to decide as to whether the petitioner must be directed to deposit 20% of the compensation.

6. Taking into consideration the facts and circumstances of the case and considering the amount that is involved in this case, there shall be a direction to the petitioner to deposit the sum of Rs.1,25,700/- within



CRL.OP.(MD). No. 5039 of 2023

a period of 4 weeks from the date of receipt a copy of this order. It is made clear that no further extension of time will be granted in this regard.

7. The Court below shall ensure that petitioner deposits the amount fixed by this Court within the stipulated period, failing which, the order suspending the sentence shall be recalled and the petitioner shall be made to suffer the sentence imposed by the Trial Court. The appeal shall also be disposed of within a period of 6 months from the date of receipt of a copy of this order.

8. In the result, this criminal original petition is allowed. Consequently, the connected miscellaneous petition is closed.

18.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
pal



CRL.OP.(MD). No. 5039 of 2023

To
WEB COPY

The Principal Sessions District Judge, Tuticorin,
Tuticorin District.



WEB COPY



CRL.OP.(MD). No. 5039 of 2023

N.ANAND VENKATESH,J.

pal

Order made in
CRL.OP.(MD). No. 5039 of 2023

18.11.2024