



Crl.R.C.(MD)No.1256 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.12.2024

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THE HONOURABLE MR.JUSTICE P.VADAMALAI

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M.Mahesh

... Petitioner

Vs.

R.Eswaramurthy

... Respondent

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 of BNSS, to call for the records pertaining to the order passed by the learned Principal District and Sessions Judge, Karur in Crl.M.P.No.1185 of 2024 in C.A.No.166 of 2024 dated 18.10.2024 in condition (i) to deposit 25% of the compensation amount to the credit in S.T.C.No.778 of 2021 on the file of the Judicial Magistrate, Fast Track Court at Magisterial Level, Karur and set aside the same.

For Petitioner : Mr.V.Nagarajan

ORDER

The present Criminal Revision Case has been filed to modify the condition No.1 of the order, dated 18.10.2024, in Crl.M.P.No.1185 of 2024 in C.A.No.166 of 2024 passed by the learned Principal and District Sessions Judge, Karur.



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2. The petitioner was convicted by the trial Court for the offence under Section 138 of Negotiable Instruments Act, and the trial Court sentenced him to undergo simple imprisonment for a period of six months and to pay a compensation of Rs.8,00,000/- (Rupees Eight Lakhs only) to the respondent/complainant within a period of one month from the date of judgment, in default, to undergo simple imprisonment for a period of one month. Challenging the above said conviction and sentence, he preferred an appeal in C.A.No.166 of 2024, along with a petition in Crl.M.P.No.1185 of 2024 filed under Section 389(1) of Cr.P.C. seeking suspension of sentence, before the learned Principal District and Sessions Judge, Karur.

3. On 18.10.2024, the learned Principal District and Sessions Judge, Karur has allowed the petition in Crl.M.P.No.1185 of 2024 and granted the relief of suspension of sentence to the petitioner/accused on the following conditions :

“(i) The petitioner shall deposit 25% of the compensation amount to the credit in S.T.C.No.778 of 2021 on the file of the Judicial Magistrate, Fast Track Court at



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Magisterial Level, Karur on or before 19.11.2024 failing which the petition shall stand dismissed automatically. The above said condition is imposed by exercising powers u/s.148 of NI Act.

(ii) The bonds executed by the petitioner and his sureties before the trial Court will be considered good and sufficient for the appeal also.

(iii) The petitioner should appear and sign before the Judicial Magistrate, Fast Track Court at Magisterial Level, Karur once in a month on every 1st working day at 10.30 a.m. till the disposal of the criminal appeal. Call on 20.11.2024.”

4. Aggrieved by the aforesaid condition No.1 of the said order, this Criminal Revision Case has been presented before this Court.

5. The learned counsel for the petitioner submitted that the petitioner is running a road side eatery shop, and is not in a position to deposit 25% of the compensation amount, since the petitioner cannot accumulate the said sum which comes to Rs.2,00,000/- (Rupees Two Lakhs only). He further submitted that the petitioner is now ready to deposit 20% of the compensation amount, and prays for a period of one month to deposit the said amount. In support of his contention, he has relied upon the judgment of the Hon'ble Supreme Court of India passed



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in ***Jamboo Bhandari vs. M.P.State Industrial Development Corporation Ltd. And Others [2023 INSC 822]*** and the order of this Court in Crl.O.P.No.947 of 2024 dated 22.01.2024 ***[C.R.Balasubramanian vs. P.Eswaramoorthi]***.

6. The apex Court in ***Jamboo Bhandari's*** case (stated *supra*) 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 reasons. Considering the facts and circumstances of the case, and considering the reasons stated by the learned counsel for the petitioner, and also considering the fact that the petitioner is now ready to deposit 20% of the compensation amount, this Court is inclined to modify the condition No.1 of the order passed by the learned Principal District and Sessions Judge, Karur in Crl.M.P.No.1185 of 2024 dated 18.10.2024.

7. Accordingly, this Criminal Revision Case is allowed, and the condition No.1 imposed by the appellate Court is hereby modified as follows :



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“(i). The petitioner shall deposit 20% of the compensation amount to the credit of S.T.C.No.778 of 2021 on the file of the Judicial Magistrate, Fast Track Court at Magisterial Level, Karur within a period of one month from the date of receipt of a copy of this order.”

8. All other conditions imposed by the appellate Court shall remain unaltered.

02.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1.The Principal District and Sessions Court,
Karur.

2.The Judicial Magistrate,
Fast Track Court at Magisterial Level,
Karur.



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P.VADAMALAI, J.

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