



Crl. O.P No.2492 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2025

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl. O.P No.2492 of 2025

and

Crl.M.P.No.1571 of 2025

Farzeen Khan

Petitioner

Vs

K.Shanugam (died)
Represented by Krishnasamy
Power of Attorney

1.C.Chitra
2.C.Dinesh Kumar
3.S.Manisha
(Substitute petition in Crl.M.P.Nos.11317
of 2024 allowed on 08.10.2024, since
K.Shanmugam died on 09.06.2024)

Respondents

Criminal Original Petition filed under Section 528 of BNSS Act, praying to set aside and modify condition of depositing 20% of the cheque amount of Rs.34,50,000/- i.e. Rs.6,90,000/- imposed on the petitioner/appellant in the order 06.12.2024 in Crl.M.P.No.34737 of 2024 in Crl.A.No.966 of 2024 passed by the I Additional Sessions Judge, Principal Sessions Judge (i/c), Chennai.



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For Petitioner : Mr.P.Sathyanathan

For Respondent : Mrs.M.Jayanthi

ORDER

This Criminal Original Petition is filed to set aside and modify condition of depositing 20% of the cheque amount of Rs.34,50,000/- i.e. Rs.6,90,000/- imposed on the petitioner/appellant in the order dated 06.12.2024 in CrI.M.P.No.34737 of 2024 in CrI.A.No.966 of 2024 passed by the I Additional Sessions Judge, Principal Sessions Judge (i/c), Chennai.

2. The case of the petitioner is that the petitioner had preferred an appeal in Criminal Appeal in 966 of 2024, as against the judgment dated 08.11.2024 in C.C.1790 of 2018 passed by the Court of the III Metropolitan Magistrate, George Town, Chennai, whereby the appellant/accused was convicted as per Section 255(2) of Cr.P.C., and sentenced to undergo two years simple imprisonment and to pay a compensation of Rs.34,50,000/- under Section 375(3) of Cr.P.C., to the complainant within two months from the date of the judgment.



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3. It is submitted by the learned counsel for the petitioner that along with the appeal, she filed Crl.M.P.No.34737 of 2024, seeking for suspension of sentence pending disposal of the appeal. The petitioner/appellant has specifically pleaded that the deposit of 20% of the compensation amount of Rs.34,50,000/- is onerous and ought to be waived since there is no enforceable or legally subsisting liability by the petitioner. However, without considering the same, the Appellate Court has mechanically passed the impugned order on 06.12.2024. Challenging the impugned order dated 06.12.2024 in Crl.M.P.No.34737 of 2024 in Criminal Appeal No.966 of 2024 passed by the I Additional Session Judge, Principal Sessions Judge (i/c), Chennai, in respect of the deposit of 20% of the compensation amount, the petitioner has filed the present petition.

4. The learned counsel for the petitioner further submitted that after the issuance of cheque, the petitioner had paid a sum of Rs.7,50,000/-. However, the said amount was not deducted. Hence, he prayed for setting aside the impugned order.



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5. The learned counsel for the respondent submitted that considering the quantum of compensation, the Appellate Court had imposed the condition of depositing 20% of the compensation and that there is no perversity in the impugned order. Thus, she prayed for dismissal of the petition.

6. Heard both sides and perused the materials available on record.

7. Considering the facts and circumstance of the case, and also the submissions made by the learned counsel on either side, and on perusal of the cross examination of PW1, this Court is of the view that though PW1 admitted the receipt of a sum of Rs.7,50,000/- towards other chit transactions, no part payment was made with regard to the issuance of cheque involved in the present case. The learned counsel for the petitioner contended that the deposit of minimum 20% amount is not an absolute rule and it can be relaxed if exceptional case is made out, as held by the Hon'ble Court in the recent case of ***Jamboo Bhandari Vs. MP State Industrial Development Corporation Ltd., 2023 Live Law (SC) 776-2023 INSC 822.***



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8. In the present case, the judgment referred to by the petitioner in the case of ***Jamboo Bhandari, supra***, is not applicable to the present case. Further, the Appellate Court, after referring to the relevant provision, has rightly ordered deposit of 20% of the compensation and this Court finds no infirmity in it.

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

07.03.2025

Neutral Citation: Yes/No
Index: Yes/no
Speaking Order/Non-Speaking Order
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To

1. I Additional Session Judge, Principal Sessions Judge,
Chennai.
2. The Public Prosecutor,
High Court, Chennai.



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G.K.ILANTHIRAIYAN, J

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