



CrI.O.P.No. 5583 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.O.P.No. 5583 of 2025

Sasikala

..... Petitioner

Vs.

S.Karuppiiah

..... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Code of Criminal Procedure, to modify the condition of “depositing 20% of the compensation amount i.e., Rs.6,00,000/- before the trial court within a period of 30 days from today” passed by the learned Additional District and Sessions Judge, Chengalpattu in CrI.M.P.No.3714 of 2021 in CrI.A.No.119 of 2024 dated 17.12.2024.

For Petitioner : Mr.A.P.Sathyamurthy

ORDER

This Criminal Original Petition has been filed challenging the order dated 17.12.2024 passed in CrI.M.P.No.3714 of 2021 in CrI.A.No.119 of 2024 by the Additional District and Sessions Judge, Chengalpattu, thereby imposed condition to deposit 20% of the cheque amount while suspending the sentence.



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2. Heard the learned counsel appearing on either side and

perused the materials available on record.

3. The petitioner is an accused in the complaint lodged by the respondent for the offence under Section 138 of Negotiable Instruments Act in C.C.No.160 of 2022. After a full-fledged trial, the trial Court convicted the petitioner for the offence under Section 138 of Negotiable Instrument Act and sentenced him to undergo three months simple imprisonment and also awarded compensation to the cheque amount. Aggrieved by the same, the petitioner preferred an appeal along with an application in CrI.M.P.No.3714 of 2024 in CrI.A.No.119 of 2024, to suspend the sentence. The Appellate Court, by an order dated 17.12.2024, suspended the sentence on condition that the petitioner shall deposit 20% of the compensation amount awarded by the Trial Court within a period of 30 days from the date of receipt of a copy of the order.

4. The learned counsel for the petitioner would submit that the petitioner is not at all liable to pay any amount. The alleged cheque was obtained in the Kattapanchayat under coercion, to the extent that the petitioner also examined P.W.1. Further, the petitioner also categorically



issued reply notice to that effect. Therefore, the petitioner made out a case for exemption from the condition to deposit 20% of the award amount.

5. In this regard, the learned counsel for the petitioner relief upon the Judgement reported in **(2023) 10 Supreme Court Cases 446** in the case of ***Jamboo Bhandari Vs. Madhya Pradesh State Industrial Development Corporation Limited and others***, in which, the Hon'ble Supreme Court of India held as follows :

6. *What is held by this Court is that a purpose interpretation should be made of Section 148 NI Act. Hence, normally, the appellate court will be justified in imposing the condition of deposit as provided in Section 148. However, in a case where the appellate court is satisfied that the condition of deposit of 20% will be unjust or imposing such a condition will amount to deprivation of the right of appeal of the appellant, exception can be made for the reasons specifically recorded.*

7. *Therefore, when the appellate court considers the prayer under Section 389 Cr.P.C. of an accused who has been convicted for offence under Section 138 NI Act, it is always open for the appellate*



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court to consider whether it is an exceptional case which warrants grant of suspension of sentence without imposing the condition of deposit of 20% of the fine/compensation amount. As stated earlier, if the appellate court comes to the conclusion that it is an exceptional case, the reasons for coming to the said conclusion must be recorded.

8. The submission of the learned counsel appearing for the original complainant is that neither before the Sessions court nor before the High Court, there was a plea made by the appellants that an exception may be made in dispensing with. He submits that if such a prayer was not made by the appellants, there was no reason for the courts to consider the said plea.

9. We disagree with the above submission. When an accused applies under Section 389 CrI.P.C for suspension of sentence, he normally applies for grant of relief of suspension of sentence without any condition. Therefore, when a blanket order is sought by the appellants, the court has to consider whether the case falls in exception or not."

6. In view of the above, the condition imposed by the Appellate Court alone cannot be sustained and is liable to be quashed.



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Accordingly, the condition to deposit 20% of the cheque amount alone is

WEB COPY hereby set aside. The other conditions remains intact.

7. In the result, this Criminal Original Petition is allowed.

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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
Lpp

To

The Additional District and Sessions Judge, Chengalpattu.



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G.K.ILANTHIRAIYAN, J.

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