



Crl.O.P.No.8719 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2025

CORAM:

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

Crl.O.P.No.8719 of 2025

Roop Chand Tople

... Petitioner

Vs.

M/s.Same Duetz Fahr (India) Pvt.Ltd.,
Nos.71 & 72, M.Sipcot Industrial Complex,
Ranipet, Vellore District 632 203 Tamilnadu
Rep.by it Authorized
rep.M.P.Ramesh

.. Respondents

PRAYER: Criminal Original Petition is filed under Section 428 of Cr.Pc. to set aside and modify the condition passed in Crl.M.P.No.422/2025 in C.A.No.43 of 2025 dated 09.01.2025 to deposit 20% of the compensation amount before the trial Court to the credit in C.C.No.2450 of 2013 by the learned Principal District and Sessions Judge, City Civil Court, Chennai.

For Petitioner : Mr.V.Geetha Rani

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.side)



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ORDER

WEB COPY This Criminal Original Petition has been filed challenging the order dated 09.01.2025 passed in Crl.M.P.No.422 of 2025 in Crl.A.No.43 of 2025 by the Principal District and Sessions Judge, City Civil Court, Chennai, thereby imposed the condition that the petitioner shall deposit 20% of the compensation amount while suspending the sentence.

2. The petitioner is an accused in the complaint lodged by the respondent for the offence punishable under Section 138 of the Negotiable Instruments Act in C.C.No.2450 of 2013 on the file of the XXV Metropolitan Magistrate Court, Egmore, Chennai.

3. After a full-fledged trial, the Trial Court convicted the petitioner for the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced him to undergo one year of simple imprisonment and also ordered him to pay a compensation of Rs.22,00,000/- (the cheque amount). Aggrieved by the same, the petitioner preferred an appeal and also filed an application to suspend the sentence. The Appellate Court, while suspending the sentence, imposed the condition that the petitioner shall deposit 20% of the compensation amount.



WEB COPY 4. The Hon'ble Apex Court in the case of ***Jamboo Bhandari Vs Madhya***

Pradesh State Industrial Development Corporation Limited and other, it has been held as follows:-

“ 7. Therefore, when Appellate Court considers the prayer under Section 389 of the Cr.P.C. of an accused who has been convicted for offence under Section 138 of the N.I. Act, it is always open for the Appellate 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 these cases and the requirement of deposit or minimum 20% of the amount be dispensed with. He submits that if such a prayer was not made by the appellants, there were no reasons for the Courts to consider the said plea.

9. We disagree with the above submission. When an accused applies under Section 389 of the Cr.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.”



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5. Thus, it is clear that though the appellant failed to plea that there is an exceptional circumstances for not to impose any condition to deposit 20% of the compensation amount, under Section 148 of NI Act, the accused filed an application for grant of suspension of sentence. Therefore, the Court cannot expect the accused to plea that it is an exceptional case for not imposing any condition while suspending the sentence as contemplated under Section 148 of NI Act.

6. It is relevant to extract the provisions under Section 148 of NI Act as follows:-

“ 148. Power of Appellate Court to order payment pending appeal against conviction.-(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), in an appeal by the drawer against conviction under section 138, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty per cent. of the fine or compensation awarded by the trial Court:

Provided that the amount payable under this sub-section shall be in addition to any interim compensation paid by the appellant under section 2 143-A.

(2) The amount referred to in sub-section (1)



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shall be deposited within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the appellant.

(3) The Appellate Court may direct the release of the amount deposited by the appellant to the complainant at any time during the pendency of the appeal:

Provided that if the appellant is acquitted, the Court shall direct the complainant to repay to the appellant the amount so released, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days may be as directed by the Court on sufficient cause being shown by the complainant."

7. On perusal of the records, this Court finds that there is no need to modify the condition imposed by the Appellate Court, i.e. Principal District and Sessions Judge, City Civil Court, Chennai. Further, the petitioner also filed a petition to make out a case for exceptional category as held by the Hon'ble Supreme Court in the case of **Jamboo Bhandari vs. State Industrial Development Corporation Ltd., & Others** reported in **(2023) 10 SCC 446**.

8. Accordingly, this criminal original petition is dismissed. However, time is extended to comply with the condition imposed by the Trial Court till



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04.04.2025. If the petitioner fails to comply with the condition on or before

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G.K.ILANTHIRAIYAN, J.

kkd

04.04.2025, the Appellate Court, i.e. The Principal District and Sessions Judge, City Civil Court, Chennai is directed to proceed against the petitioner, in accordance with law.

25.03.2025

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

To

The Principal District and Sessions Judge,
City Civil Court, Chennai.

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