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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2025

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.15138 of 2024

Mrs.Gandhi

... Petitioner

Vs.

S.Jayaprakash

... Respondent

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to modify the condition with respect to “(i) that 20% of the cheque amount (less if any of the amount paid under Section.143 A NI Act is ordered to be deposited before the trial Court by the Petitioner/appellant/accused in terms of Section 148 of Negotiable Instruments Act, 1881, within a period of 60 days from the date of this order, failing which this order of suspension of execution of sentence of the said imprisonment shall stand vacated automatically”, imposed by the Principal District and Sessions Judge, Erode in Crl.M.P.No.01 of 2024 in Crl.A. No.153 of 2024, vide order dated 30.04.2024.

For Petitioner : Mr.S.Abdul Kapoor

For Respondent : No Appearance

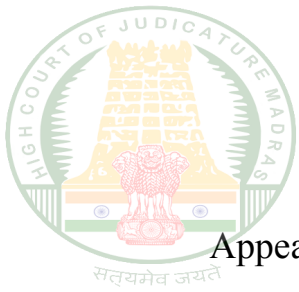


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ORDER

This Criminal Original Petition is filed to modify the condition with respect to “(i) that 20% of the cheque amount (less if any of the amount paid under Section.143 A NI Act is ordered to be deposited before the trial Court by the Petitioner/appellant/accused in terms of Section 148 of Negotiable Instruments Act, 1881, within a period of 60 days from the date of this order, failing which this order of suspension of execution of sentence of the said imprisonment shall stand vacated automatically”, imposed by the Principal District and Sessions Judge, Erode in Crl.M.P.No.01 of 2024 in Crl.A. No.153 of 2024, vide order dated 30.04.2024.

2. The petitioner is an accused on the complaint lodged by the respondent for the offence under Section 138 of the NI Act. After full fledged Trial, the petitioner was convicted by the Trial Court viz., the Fast Track Court No.I, Erode in STC No.549 of 2018 by an order dated 01.04.2024 and sentenced him to undergo Simple Imprisonment for a period of three months and also awarded compensation to the tune of cheque amount. Aggrieved by the same, the petitioner preferred an



Appeal and also filed an Application to suspend the sentence. The Appellate Court imposed conditions that the petitioner shall deposit 20% of the cheque amount to the credit of STC. No.549 of 2024 before the Trial Court.

3. Section 148 of the NI Act, provides an Appellate Court to order a pre-deposit from the accused who appeals a conviction under Section 138. The petitioner failed to make out the ground for exception from imposing condition as contemplated under Section 148 of the NI act.

4. Further, the petitioner also failed to state any ground to set aside the conditional order passed by the Appellate Court. The only reason stated by the petitioner is that the petitioner could not be able to mobilise funds to comply the conditions, that apart, the order was passed on 30.04.2024. The learned counsel for the petitioner seeks liberty to comply the conditions imposed by the Appellate Court, if time is extended. However even till today, the petitioner did not take any steps to comply the condition imposed by the Appellate Court.



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5. In view of the above, this Court is not inclined to grant the modification as sought for by the petitioner. Accordingly, this Criminal Original Petition is dismissed.

18.02.2025

Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order

rkp

To

1. The Principal District and Sessions Judge, Erode.
2. The Judicial Magistrate, Fast Track Court No.I, Erode.



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G.K.ILANTHIRAIYAN, J.

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