



Crl.O.P.No.15794 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2025

CORAM:

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

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1. M/s.Nilanjana Fashion Pvt. Ltd.,
Rep. by its Authorized Signatory/
Director Shankar Saraf,
Shreelekha Apartments,
42A, Park Street, 6th Floor,
Kolkata – 700 016.

2. Shankar Saraf
Authorized Signatory/Director,
M/s.Nilanjana Fashion Pvt. Ltd.,
Rukmani Parasmani Tower,
92/1, Moulana Abdul Kalam Azad,
Sarani, Kolkata – 700 054.

3. Hari Krishna, Director,
M/s.Nilanjana Fashion Pvt. Ltd.,
Kolkata – 700 054.

4. Hari Ram Saraf, Director,
M/s.Nilanjana Fashion Pvt. Ltd.,
Kolkata – 700 054.

... Petitioners

Vs.

Kotak Mahindra Bank,
Egmore,
Chennai – 600 009.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of



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Cr.P.C., to set aside the order dated 29.04.2024 passed in Crl.M.P.No.12958/2024 in C.A.No.344 of 2024 against the judgment dated 27.03.2024 in C.C.No.1534 of 2018 on the file of the Metropolitan Magistrate, FTC-IV, George Town, Chennai and grant exemption from depositing 5% of the total compensation amount to suspend the sentence.

For Petitioners : Mr.V.Santharam

For Respondent : Ms.B.Narmada
For Mr.M.Arunachalam

ORDER

The Criminal Original Petition has been filed challenging the order dated 29.04.2024 passed by the learned Principal Sessions Judge, Chennai, in Crl.M.P.No.12958 of 2024 in C.A.No.344 of 2024, thereby imposing condition while suspending the sentence imposed by the learned Metropolitan Magistrate, FTC-IV, George Town, Chennai, in C.C.No.1534 of 2018 dated 27.03.2024.

2. The petitioners are the accused in the complaint lodged by the respondent for the offence punishable under Section 138 of Negotiable Instruments Act in C.C.No.1534 of 2018 on the file of the learned Metropolitan Magistrate, FTC-IV, George Town, Chennai. After full fledged trial, the trial Court convicted the petitioners and sentenced



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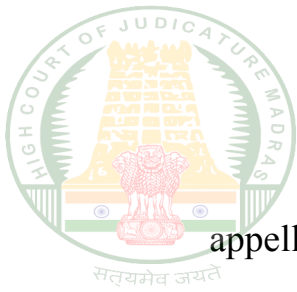
them to undergo three months simple imprisonment and also awarded compensation to the tune of cheque amount viz., Rs.7,95,00,000/- payable by first accused company and a sum of Rs.50,00,000/- payable by the second accused.

3. Aggrieved by the same, the petitioners filed appeal in C.A.No.344 of 2024 along with the application for suspending the sentence in Crl.M.P.No.12958 of 2024 before the learned Principal Sessions Judge, Chennai. The learned Sessions Judge, while suspending the sentence imposed condition that the petitioners shall deposit 5% of the compensation amount within a period of sixty days from the date of that order. Challenging the said order, the present petition has been filed.

4. The learned counsel appearing for the petitioner submitted that negotiations are going on between the petitioners and the respondent bank.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. As per Section 148 of Negotiable Instruments Act, the



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appellate Court can impose condition to deposit 20% of the compensation amount while suspending the sentence. However, the appellate Court directed the petitioners to deposit 5% of the compensation amount before the trial Court. That apart, if any settlement between the parties, they can very well approach the appellate Court in C.A.No.344 of 2024, to compound the offence.

7. In view of the above discussions, this Court finds no infirmity or illegality in the order passed by the Court below. Accordingly, the Criminal Original Petition stands dismissed.

24.02.2025

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

rts



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To
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1. The Principal Sessions Judge,
Chennai,
2. The Metropolitan Magistrate,
FTC-IV, George Town, Chennai,
3. Kotak Mahindra Bank,
Egmore,
Chennai – 600 009.



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G.K.ILANTHIRAIYAN, J.

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