



CrI.O.P.No.32395 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.O.P.No.32395 of 2024 and
CrI.M.P.No.18570 of 2024

A.Balasubramanian

... Petitioner

Vs.

K.T.Krishnasamy

... Respondent

Prayer: Criminal Original Petition filed under Section 528 of B.N.S.S. to modify the condition No.(a)(i) that "the petitioner/appellant and accused is directed to deposit 10% of the compensation amount before the trial Court to the credit of STC No.29/2021 within a period of sixty days. In default of deposit of compensation amount the order passed will stand cancelled automatically passed by the Principal District and Sessions Judge at Erode in M.P.No.1/2024 in CrI.Appeal No.291/2024 on 18.10.2024.

For Petitioner : Mr.G.K.Sekar

ORDER

This Criminal Original Petition has been filed by the petitioner seeking modification of the condition No.(a)(i) passed by the Principal District and



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Sessions Judge, Erode in M.P.No.1/2024 in Crl.Appeal No.291/2024 on

18.10.2024 directing the petitioner/appellant to deposit 10% of the compensation amount before the trial Court to the credit of STC No.29 of 2021 within a period of sixty days.

2. The learned counsel for the petitioner submitted that the petitioner is accused in STC No.29 of 2021 on the file of the Judicial Magistrate Fast Track Court No.1, Erode. The learned Magistrate, after enquiry, convicted the petitioner under Section 138 of the Negotiable Instruments Act and directed the petitioner to pay the cheque amount of Rs.3,00,000/-. Aggrieved by the same, the petitioner preferred an appeal in Crl.A.No.291 of 2024 before the Principal District and Sessions Judge, Erode, and he also filed an application M.P.No.1 of 2024 to suspend the sentence and the same was ordered on 18.10.2024 imposing certain conditions on the petitioner and one of the conditions is that 10% of the cheque amount has to be deposited by the petitioner/accused before the trial Court in terms of S.148 of Negotiable Instruments Act within a period



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of 60 days from the date of order. Against which, the present petition is filed.

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3. Heard the learned counsel for the petitioner and perused the materials available on record.

4. Since no adverse order is being passed, notice to the respondent is dispensed with.

5. It is to be noted that though the Negotiable Instruments Act has given power to the appellate Court to impose a condition to deposit up to 20% of the compensation amount, the Appellate Judge generously imposed a condition to deposit only 10% of the cheque amount that too by granting 60 days time to comply with the order. The petitioner instead of availing the opportunity, has filed the present petition.

6. It is seen that the complaint in STC No.29 of 2021 was pending from 2021 and only after 4 years, i.e on 30.08.2024, the Magistrate was able to conclude the proceedings and passed the judgment, whereas, even after a period of five years from the date of complaint, the petitioner is not ready to



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deposit even 10% of the cheque amount in order to comply with the order of the appellate Court. The contention of the petitioner is that the condition to deposit 10% of the cheque amount is unjust, however, now the learned counsel for the petitioner seeks extension of time to comply with the order of the Court below, which shows that the petitioner has not approached this Court with clean hands and his only motive is to protract the case without paying singly pie. Under these circumstance, this Court does not find any reason to interfere with the order of the appellate Court.

7. Accordingly, this Criminal Original Petition is dismissed.

Consequently, connected Miscellaneous Petition is closed.

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

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To
The Principal District and Sessions Judge
Erode



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P.VELMURUGAN. J.

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