

THE HON'BLE SRI JUSTICE K. SREENIVASA REDDY

Criminal Petition No.435 of 2023

ORDER:

This Criminal Petition is preferred against the order, dated 23.12.2022, passed in CrI.M.P.No.1110 of 2022 in Criminal Appeal No.165 of 2022 on the file of the Court of the I Additional District and Sessions Judge, Chittoor.

2. The petitioner is accused in C.C.No.21 of 2020 on the file of the Judicial Magistrate of First Class, Palamaner. *Vide* judgment dated 17.11.2022 in the said Calendar Case, he was convicted of the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo Simple Imprisonment for one year and also to pay fine of Rs.8,10,000/- and out of which, an amount of Rs.8,00,000/- (Rupees Eight Lakhs only) is to be paid to the complainant towards compensation under Section 357 (3) Cr.P.C. to the complainant and in default of payment of fine to suffer simple imprisonment for a period of one month. Aggrieved by the same, the petitioner preferred Criminal Appeal No.165 of 2022 on the file of the Court of the I Additional District and Sessions Judge, Chittoor, and also filed CrI.M.P.No.1110 of 2022 therein seeking to suspend the imprisonment and fine amount imposed by the trial Court. The

appellate Court, *vide* impugned order dated 23.12.2022, suspended the operation of sentence on the following conditions;

“....the sentence of imprisonment imposed by the learned Judicial Magistrate of I Class, Palamaner on 17.11.2022 in C.C.No.21/2020 is hereby suspended till disposal of the appeal and the petitioner/accused is ordered to be enlarged on bail, subject to the petitioner/accused depositing 40% out of the fine amount of Rs.8,10,000/- imposed by the trial Court, before the trial Court, within 60 days from the date of this order and on his executing a bond for Rs.10,000/- each with two sureties each for like sum to the satisfaction of the trial Court”

3. Against the said order, the present Criminal Petition has been filed by the petitioner.

4. Learned counsel for the petitioner at the time of hearing submitted that the condition imposed by the learned Sessions Judge is onerous. He submits that the petitioner is not in a position to procure 40% of the fine amount i.e., Rs.3,24,000/- within the stipulated period, hence he prays to relax the condition of deposit 40% of the fine amount by 20% of the fine amount.

5. Though the impugned order was passed on 23rd December, 2022, it is further contended for the petitioner that till today the petitioner could not avail the benefit of suspension of sentence since the petitioner is in serious financial crisis and he is not in a

position to pay the said amount. He also submits that he got fair chances to succeed in the appeal.

6. In view of the aforesaid reasons stated for the petitioner, this Court feels that imposing a condition of depositing 20% of the fine amount would meet the ends of justice. Accordingly, the impugned order, passed in CrI.M.P.No.1110 of 2022 in Criminal Appeal No.165 of 2022, dated 23.12.2022 on the file of the Court of the I Additional District and Sessions Judge, Chittoor, is modified by directing the petitioner/accused to deposit 20% of the fine amount within a period of eight weeks from the date of receipt of a copy of this Order. In respect of the other conditions, they remain unaltered.

With the above said modification, this Criminal Petition is disposed of.

As a sequel, interlocutory applications pending, if any, in this Criminal Petition shall stand closed.

Date:13.02.2023
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K.SREENIVASA REDDY, J

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