NC: 2023:KHC-D:11099
CRL.P No. 101780 of 2023

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 22ND DAY OF SEPTEMBER, 2023

BEFORE

THE HON'BLE MR JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO. 101780 OF 2023

BETWEEN:

JAYAGOUDA S/O SHIVAGOUDA PATIL,
AGE. 60 YEARS, OCC. BUSINESS NOW NIL,
R/O. HALLAD KERI, PATIL GALLI, HUKKERI,
TQ. HUKKERI, DIST. BELAGAVI-591128.

... PETITIONER

(BY SRI. PRASHANT MATHAPATI, ADVOCATE)

AND:

SHREE BASAVESHWAR URBAN SOUHARD SAHAKARI LTD.,
SANKESHWAR, R/BY VIVEK S/O SHREEDHAR GALAGALI,
AGE. 47 YEARS, OCC. SERVICE, TQ. HUKKERI,
DIST. BELAGAVI-591313.

... RESPONDENT

(BY SMT. CHETANA S. BIRAJ, ADVOCATE)

VISHAL NINGAPPA PATTIHAL

Digitally signed by VISHAL NINGAPPA PATTIHAL
Date: 2023.09.25 10:55:58 +0530

THIS CRIMINAL PETITION IS FILED U/SEC. 482 OF CR.P.C. SEEKING TO MODIFY THE ORDER DATED 16.06.2023 IN CRL.APPEAL NO. 5030/2023 FOR DEPOSITING THE 20% AMOUNT PASSED BY THE VII ADDL. DISTRICT AND SESSIONS JUDGE BELAGAVI SITTING AT CHIKKODI, FOR THE OFFENCE PUNISHABLE U/S 138 OF NI ACT.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. Heard Sri. Prashant Mathapati, learned counsel appearing for petitioner and Smt. Chetana S. Biraj, learned counsel appearing for the respondent.

2. The petitioner is before this Court calling in question an order dated 16.6.2023 by which the learned Sessions Judge rejects the application of the petitioner, seeking extension of time to deposit 20% of the fine amount as directed by the learned Magistrate for consideration of the appeal, under Section 148 of Negotiable Instrument Act (Act for short).

3. The petitioner is the accused and the respondent, the complainant. The two have a transaction. The merit of transaction is not a issue in the lis. The petitioner gets convicted of the offence punishable under Section 138 of the Act. After such conviction, prefers an appeal before the learned Sessions Judge. As necessary under Section 148 of the Act, for an appeal to be entertained and sentence to be suspended, 20% of the

amount required to be deposited before the concerned court.

4. The concerned court by its order dated 16.6.2023 suspends the sentence subject to condition of depositing 20% of the fine amount as directed by the trial Court. This is not done and an application seeking extension is preferred, that also comes to be rejected. Therefore, the petitioner is before this Court.

5. Learned counsel appearing for the petitioner files a memo depicting that the petitioner has deposited Rs.14,88,138/- before the registry of the concerned court, which is an amount equivalent to 20% of the fine amount as directed by the trial Court.

6. In the light of the said deposit made, petition is rendered infructuous, as petition had been entertained on the plea that the petitioner would deposit the amount during the pendency of the petition. In the light of the said deposit, petition is disposed of as having become infructuous and suspension of sentence earlier made by

the concerned court shall continue, till the next date of hearing, before the concerned court. The concerned court is at liberty to regulate its procedure.

Ordered accordingly.

Sd/-
JUDGE

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