

Motilal Vs. Ramnarayan

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Court : Madhya Pradesh

Decided On : Mar-12-2013

Appellant : Motilal

Respondent : Ramnarayan

Advocate for Def. : Shri. Pramod Thakare

Advocate for Pet/Ap. : Shri. Hemant Namdeo

Judgement :

M.Cr.C.No.15651 o

12. 03.2013 Shri Hemant Namdeo, learned counsel for the applicant.

Shri Pramod Thakare, learned counsel for respondent.

Heard.

The applicant/appellant/accused has filed this petition under Section 482 of Cr.P.C being aggrieved by the order dated 24.12.2012, (Ann.

A-1).passed by the Special Judge and Sessions Judge, Bhopal in Criminal Appeal No.(Unregistered)/2012, whereby the sentence of the applicant under Section 138 of the Negotiable Instruments Act for one year RI with compensation/fine of 9 lacs imposed on him by the Court of Judicial Magistrate, Ist Class, (Fast Track Court, Bhopal) in Complaint Case No.9559/2012, vide dated 23.11.2012 has been

suspended with condition of furnishing the personal bond of Rs.20,000/- alongwith one surety of like amount to the satisfaction of the trial court so also on depositing Rs.4 lacs out of the aforesaid awarded compensation within five days with the trial court.

The applicant's counsel after taking me through the petition alongwith papers placed on record as well as impugned order argued that the appellate court has wrongly imposed the condition to deposit Rs.4 lacs to release him on bail by suspending the remaining jail sentence.

He further said that in the available circumstances such condition could not have been imposed by the appellate court with a further submission that the applicant being poor person is not in a position to deposit such sum of Rs.4 lacs.

He also said that in compliance of the earlier interim order of this court the applicant has deposited Rs.1,50,000/- out of the awarded compensation with the trial court and prayed for admission and allowing this petition.

Having heard the counsel after perusing the papers placed on record, so also the provision of Section 389 of Cr.P.C in which the appellate court has suspended the awarded jail sentence of the applicant subject to some terms and conditions, I have not found any error, infirmity, illegality or irregularity in the impugned order of the appellate court whereby for suspension of the jail sentence, the condition for depositing the sum of Rs.4 lacs out of compensation awarded by the trial court to the respondent under Section 357 of Cr.P.C.has been imposed to release them on bail.

As per provision of Section 389 of Cr.P.C., the appellate court has authority and power to suspend the jail sentence awarded by the subordinate court subject to certain terms and conditions necessary in the available circumstances.

In in such premises, I have not found any substance or material in the order impugned which requires interference of this court under Section 482 of Cr.P.C.Apart the aforesaid, recovery of compensation of fine could not be termed as irreparable injury to the applicant/appellant.

So in such premises, also the impugned order could not be interfered.

I also deem fit to observe that if the applicant wants to enjoy the order of suspension of the jail sentence then he has to comply with the terms and conditions imposed by the appellate court, otherwise he has to face the consequences of the same.

In view of the aforesaid, I have not found any merits in the present matter.

Consequently the same deserves to be and is hereby dismissed.

However, the duration of five days extended by the appellate court to deposit the amount of fine Rs.4 lacs is extended for further twenty days from today and if such amount is deposited by the applicant, then only he may enjoy the order of suspension of jail sentence.

However, in order to protect the interest of both the parties, the trial court is directed that on depositing the aforesaid sum of Rs.4 lacs as directed by the appellate court, instead to disburse the same to the complainant right now, the same be kept with some nationalized bank under some fixed deposit scheme with stipulation of its periodical revival till disposal of the aforesaid criminal appeal.

Simultaneously the appellate court is also directed to take an endeavour to expedite the hearing of the appeal and conclude the same within four month from the date of submitting the certified copy of this order by either of the parties before such court.

Counsel of both the parties are directed to submit a copy of this order before the trial court within seven days.

C c as per rules.

(U.C.Maheshwari) Judge bks

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