

ORDERS

This appeal is preferred by the appellant against the judgment of conviction and order of sentence passed by the Addl Civil Judge and JMFC, Periyapatna, in CC.No.191/2020 dated 08/04/2024.

2. The appellant had filed an application under Section 389(1) of Cr.P.C., praying this Court to suspend the order of sentence passed by the said court convicting the appellant to pay a fine of Rs.5,30,000/- and in case of default, she shall undergo simple imprisonment for 3 months. Out of the fine amount, Rs.5,20,000/- shall be paid to the complainant as compensation as per Section 357(1) of Cr.P.C. The remaining amount of Rs.10,000/- shall defray to the State.

3. I have perused the record. The appellant may have grounds to challenge the order passed by the Trial Court.

4. Amended Section 148 of the Negotiable Instrument Act reads as follows:

"148. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, in an appeal by the drawer against conviction under section 138, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty percent of the fine or compensation awarded by the Trial Court.

Provided that the amount payable under this sub-section shall be in addition to any interim compensation paid by the appellant under Section 143A.

(2) The amount referred to in Sub-Section (1) shall be deposited within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the appellant.

(3) The Appellate Court may direct the release of the amount deposited by the appellant to the complainant at any time during the pendency of the appeal:

Provided that if the appellant is acquitted, the Court shall direct the complainant to repay to the appellant the amount so released, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant."

5. In this case, the fine imposed is Rs.5,30,000/-. Hence, the appellant has to direct to deposit Rs.1,06,000/- and to execute a bond with a surety for a sum of Rs.5,30,000/- before the Trial Court for staying the execution of the sentence.

6. Hence, I proceed to pass the following:-

ORDER

The order of conviction passed by Addl Civil Judge and JMFC, Periyapatna, in CC.No.191/2020 dated 08/04/2024. is hereby suspended subject to the following conditions:

The appellant shall deposit a sum of Rs.1,06,000/- before the trial court.

The appellant shall execute a bond with a surety for a sum of Rs.5,30,000/- for his appearance before the trial court to receive sentence, if the order of sentence is confirmed by this court.

The appellant shall comply the order within 30 days from the date of this order.

Issue notice on the main appeal and stay order to the respondent as PF paid.

I/c VIII AD&SJ, Hunsur.