

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29<sup>TH</sup> DAY OF OCTOBER, 2020

BEFORE

THE HON'BLE MR.JUSTICE B.A. PATIL

**CRIMINAL PETITION NO.5766 OF 2020**

**BETWEEN:**

Sri. Digviji Ray  
S/o. Late Manik Kumar Ray  
Aged about 30 years  
Residing at A-1101, t5  
'A' Block, Godrej Woodaman  
Estate, Hebbal  
Bengaluru – 560 024.

Also at:

Sri. Digviji Ray  
S/o. Late Manik Kumar Ray  
Aged about 30 years  
NOSTER CONSULTING  
No.2/5, 80 feet Road  
RMV II Stage  
Bengaluru – 560 024.

... Petitioner

(By Sri Sandesh Kumar M., Advocate)

**AND:**

Sri. D. Rajendra  
Son of J.A.Dorairaj  
Aged about 50 years  
Residing at No.713, Naidhile  
3<sup>rd</sup> Main Road, 1<sup>st</sup> Stage

2<sup>nd</sup> Phase, Gokula Extension  
Bengaluru – 560 024.

... Respondent

(V/o. dated 29.10.2020 notice to respondent is  
dispensed with)

This Criminal Petition is filed under Section 482 of Cr.P.C., praying to quash the order passed by the City Civil and Sessions Judge CCH-61, Bengaluru on 20.10.2020 dismissing an application filed under section 389(1) of the Code of Criminal Procedure (Annexure-C).

This Criminal Petition coming on for **Orders** through video conference this day, the Court made the following:

**ORDER**

Heard Sri Sandesh Kumar M, learned counsel for the petitioner.

Notice to respondent is dispensed with.

2. The present petition has been filed by the petitioner-accused under Section 482 of Cr.P.C., to quash the order passed by the City Civil and Sessions Judge (CCH-61), Bengaluru on 20.10.2020 dismissing the application filed under Section 389(1) of Cr.P.C.

3. It is the submission of the learned counsel for the petitioner-accused that he has filed the appeal against the judgment of conviction and order of sentence passed by the XV Additional Chief Metropolitan Magistrate Court, Bengaluru in C.C.No.22483/2018 dated 21.09.2019 under Section 138 of Negotiable Instrument Act. It is his further submission that the learned Sessions Judge passed the order of suspension of the sentence subject to the payment of deposit 20% of the total fine amount imposed by the trial Court within sixty days and he shall execute a personal bond for a sum of Rs.25,000/- with one surety to the satisfaction of the trial Court. Since the order dated 31.10.2019 has not been complied with in the stipulated time by the petitioner-accused, he has filed an application for extension of the time to deposit the fine amount as ordered by order dated 31.10.2019.

4. The learned Sessions Judge after hearing the learned counsel for the petitioner has dismissed the said application. It is the submission of learned counsel for the petitioner-accused that he is ready to deposit 20% of the total fine amount imposed by the trial Court within ten days and he is also ready to comply with whatever the directions which have been issued in this behalf.

5. Taking into consideration of the factual matrix of the case on hand, I am of the considered opinion that the trial Court on too technically has dismissed the application. It is well settled proposition of law that rules of procedure are hand made of justice and they should be given a liberal view. it is the submission of learned counsel for the petitioner-accused that because of Pandemic Covid-19, it was not possible for him to arrange the funds and to deposit within a stipulated time and now he is

ready to deposit the amount as ordered by the learned Sessions Judge. Since this order is in no way affect the respondent, his presence has been dispensed with. Under such circumstances, if a direction has been issued to the trial Court to allow the petitioner to deposit the amount as ordered by it by the order dated 31.10.2019, it is going to meet the ends of justice.

In that light, petition is ***allowed*** and the impugned order dated 20.10.2020 has been set aside and petitioner-accused is permitted to deposit 20% of the amount imposed by the trial Court within a period of fifteen days from today, failing which, this order stands cancelled automatically.

**Sd/-  
JUDGE**

GJM