

Crl.M.P. No. 5567 of 2016
in
Crl. R.C. No. 741 of 2016

V.BHARATHIDASAN, J.

This petition has been filed seeking to suspend the sentence imposed on the petitioner by the learned Metropolitan Magistrate, Fast Track Court No.III, Saidapet, Chennai, in C.C. No.8699 of 2010 dated 19.09.2013 convicting the petitioner for the offence under Section 138 of the Negotiable Instruments Act and sentencing him to undergo one year imprisonment and to pay the cheque amount as compensation to the complainant. As against the same, the petitioner filed Criminal Appeal No.215 of 2013 before the learned XIX Additional Sessions Judge, City Civil Court, Chennai which was dismissed on 25.04.2016.

2. The case of the complainant/respondent is that the petitioner issued a cheque for Rs.2,00,000/- in favour of the respondent/complainant for discharging the legally subsisting liability and the cheque was dishonoured and hence, the present case has been filed against the petitioner.

3. The learned counsel for the petitioner would contend that there are glaring inconsistencies in the complaint of the respondent and the evidence adduced thereon. The petitioner/accused had rebutted the presumption under Section 138 of the Negotiable Instruments Act by stating that there is no legally enforceable debt. There are also other serious infirmities in the case of the respondent/complainant but without properly appreciating it, the courts below have erroneously convicted the petitioner. The learned counsel for the petitioner also submits that the petitioner is

prepared to deposit Rs.25,000/- to prove his bonafide and therefore, the learned counsel for the petitioner prays for suspending the sentence imposed on the petitioner pending the criminal revision case.

4. Considering the facts and circumstances of the case and a perusal of the impugned judgment of conviction shows that there are arguable points involved in this revision and also considering the fact that the revision may not be taken up for final hearing in the near future, this Court is of the considered view, that the revision petitioner is entitled to the relief of grant of suspension of sentence as well as exemption as prayed for. Accordingly, the substantive sentence of imprisonment imposed on the petitioner is suspended on the following conditions:-

(i) The petitioner shall, as per his undertaking before this Court, deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) to the credit of C.C. No.8699 of 2010 on the file of the learned Metropolitan Magistrate, Fast Track Court No.III, Saidapet, Chennai, within a period of four weeks from the date of receipt of a copy of this order. In default, this order, suspending the sentence imposed on the petitioner, shall stand vacated automatically, without reference to this Court.

(ii) The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Metropolitan Magistrate, Fast Track Court No.III, Saidapet,

Chennai and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.00 a.m. pending disposal of the revision.

12.05.2016

gv

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