

Crl.M.P.Nos.5077 & 5078 of 2017
in
Crl.R.C.No.571 of 2017

V.BHARATHIDASAN, J.,

Petitioners were convicted for an offence under Section 138 of the Negotiable Instruments Act and second petitioner/A2 was sentenced to undergo simple imprisonment for one year and petitioners 1 & 2/A1 & 2 to pay a fine of Rs.1000/- each, in default, the second petitioner/A2 to undergo simple imprisonment for one month for himself and also on behalf of the first petitioner/A1, by learned Judicial Magistrate, Fast Track Court, Tiruppur, by a judgment dated 12.01.2016 in C.C.No.129 of 2014. Challenging the same, petitioners preferred an appeal in C.A.No.10 of 2016 on the file of II Additional District and Sessions Court, Tiruppur, and the lower appellate court confirmed the conviction and sentence and dismissed the appeal by a judgment dated 17.03.2017. Aggrieved which, the present revision has been filed.

2. Crl.M.P.No.5077 of 2017 has been filed seeking suspension of sentence imposed on the petitioners and Crl.M.P.No.5078 of 2017 has been filed seeking exemption from surrendering before the trial court.

3. The learned counsel appearing for the petitioners would submit that the petitioners had borrowed a sum of Rs.20,000/- only in the year 2006 and to repay the same, a cheque and a pronote has been given to the respondent/complainant. Subsequently, the entire amount was discharged, but the respondent/complainant refused to return the cheque and pronote and thereafter using the cheque, the present complaint has been given stating that the petitioner has borrowed a sum of Rs.2,00,000/- and the Court below without considering the evidence with proper perspective, convicted the petitioners.

4. Heard the learned counsel appearing for the petitioners and perused the impugned judgment and the materials available on record carefully.

5. Taking into consideration of the submission of the learned counsel, since there are some arguable points involved in the revision, I am inclined to suspend the substantive sentence of imprisonment alone.

6. Accordingly, pending revision, **substantive sentence of imprisonment alone is suspended** and the second petitioner is released on bail on his executing 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 Judicial Magistrate, Fast

Track Court, Tiruppur with further condition that he shall appear before the said court on the first working day of every month at 10.30 a.m.,until further orders. The surrender of the second petitioner before the trial Court is exempted.

12.04.2017

mrp

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