

Crl.M.P.Nos.5873 and 7521 of 2017
in Crl.R.C.No.648 of 2017

V.BHARATHIDASAN, J.,

Petitioner was convicted for an offence under Section 138 of the Negotiable Instruments Act and petitioner was sentenced to undergo simple imprisonment for six months and to pay compensation of Rs.2,50,000/-, in default, to undergo simple imprisonment for three months, by the learned Judicial Magistrate, Fast Track Court No.I, at Magistrate Level at Coimbatore, by a judgment dated 25.04.2016 in C.C.No.312 of 2014 (Old. STC No.185 of 2009). Challenging the same, petitioner had preferred an appeal in C.A.No.72 of 2016 on the file of the learned I Additional District and Sessions Judge, Coimbatore, and the lower Appellate Court confirmed the conviction and sentence and dismissed the appeal by a judgment dated 24.03.2017. Aggrieved which, the present revision has been filed.

2. Crl.M.P.No.5873 of 2017 has been filed seeking suspension of sentence imposed on the petitioner and Crl.M.P.No.7521 of 2017 has been filed seeking exemption from surrendering before the trial court.

3. The learned counsel appearing for the petitioner would submit that the defacto complainant is running a chit business, in which, the petitioner was one of a subscriber. At the time of joining the chit, the petitioner has given a blank cheque and also executed a pro-note. The same was also admitted by the defacto complainant in his cross examination. Subsequently, he has taken chit and also repaid the entire dues. The learned counsel further submitted that absolutely there is no evidence to show that the petitioner has borrowed a sum of Rs.2,50,000/-. The trial court without considering none of

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the evidence and without assigning any reason, simply convicted the petitioner and the lower appellate court also confirmed the same mechanically.

4. Heard the learned counsel appearing for the petitioner 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 including compensation is suspended** and the 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 learned Judicial Magistrate, Fast Track Court No.I, Magistrate Level, Coimbatore, 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 petitioner before the trial Court is exempted.

20.06.2017
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the sentence is suspended on condition that the petitioner shall deposit a sum of Rs.1,00,000/-(Rupees One Lakh only) to the credit of S.T.C.No.46 of 2014 on the file of the Judicial Magistrate, Fast Track Court No.I, Erode, within a period of 8 weeks from today and

If the petitioner fails to comply with the above condition, this order shall stand automatically vacated without any further reference to this Court.

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