

Crl.M.P.Nos.6712 & 6910 of 2017**in****Crl.R.C.No.709 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 6 months and to pay a fine of Rs.5000/-, in default, to undergo simple imprisonment for 15 days, by the learned Judicial Magistrate, Fast Track Court No.I, Erode, by a judgment dated 02.10.2015 in S.T.C.No.46 of 2014. Challenging the same, petitioner had preferred an appeal in C.A.No.164 of 2015 on the file of the I Additional District and Sessions Court, Erode, and the lower appellate court confirmed the conviction and sentence and dismissed the appeal by a judgment dated 27.01.2017. Aggrieved which, the present revision has been filed.

2. Crl.M.P.No.6712 of 2017 has been filed seeking suspension of sentence imposed on the petitioner and Crl.M.P.No.6910 of 2017 has been filed seeking exemption from surrendering before the trial court.

3. The learned counsel appearing for the petitioner would submit the petitioner was working as a conductor and on the date of issuance of cheque, he was on duty and he was not at Erode and to prove the same, he examined the Transport Corporation Manager. Without considering the same, the Courts below convicted the petitioner.

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

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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, 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 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 Judicial Magistrate, Fast Track Court No.I, Erode, 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. If the petitioner fails to comply with the above condition, this order shall stand automatically vacated without any further reference to this Court. The surrender of the petitioner before the trial Court is exempted.

**06.06.2017
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