

Crl.M.P.Nos.7693 and 7694 of 2017
in Crl.R.C.No.840 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 a fine of Rs.10,000/-, in default, to undergo simple imprisonment for 2 months, by the learned Judicial Magistrate No.I, Pollachi, by a judgment dated 30.06.2015 in S.T.C.No.1585 of 2011. Challenging the same, petitioner had preferred an appeal in C.A.No.169 of 2015 on the file of the learned III Additional District and Sessions Judge, Coimbatore, and the lower Appellate Court confirmed the conviction and sentence and dismissed the appeal by a judgment dated 18.04.2017. Aggrieved which, the present revision has been filed.

2. Crl.M.P.No.7693 of 2017 has been filed seeking suspension of sentence imposed on the petitioner and Crl.M.P.No.7694 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 a contractor. The petitioner entered into contract with the defacto complainant and he has finished the construction work in the petitioner's house. Admittedly, original agreement amount has been paid by the petitioner. The learned counsel for the petitioner would further submit that though certain additional construction was alleged to have been made, for which, the petitioner also issued a cheque, actually there was no additional construction made and in order to prove the additional construction, no witness has also been examined. The trial court without considering none of the evidence and without assigning any reason, simply convicted the petitioner and the lower appellate court also confirmed the same mechanically.

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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 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 substantive sentence of imprisonment alone 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 I, Pollachi, 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.

22.06.2017
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