

Crl.M.P.Nos.7952 & 8135 of 2017**in****Crl.R.C.No.853 of 2017****V.BHARATHIDASAN, J.,**

Petitioner was convicted for an offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for one year and to pay a fine of Rs.5,000/-, in default, to undergo simple imprisonment for 2 months, by the learned Judicial Magistrate, Fast Track Court at Magisterial Level -II, Coimbatore, by a judgment dated 25.01.2016 in C.C.No.282 of 2013. Challenging the same, petitioner had preferred an appeal in C.A.No.19 of 2016 on the file of the V Additional District and Sessions Court, Coimbatore, and the lower appellate court confirmed the conviction and sentence and dismissed the appeal by a judgment dated 17.09.2016. Aggrieved which, the present revision has been filed.

2. Crl.M.P.No.7952 of 2017 has been filed seeking suspension of sentence imposed on the petitioner and Crl.M.P.No.8135 of 2017 has been filed seeking exemption from surrendering before the trial court.

3. The learned counsel appearing for the petitioner submits that the petitioner has given a cheque only as a security for the loan obtained by one Ramesh, who was examined as DW1 and the petitioner has no liability and the same was also established by the petitioner by examining the said Ramesh as DW1 and marked documents, Ex.D1 to Ex.D6. The Court below without considering the same had erroneously 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 for the petitioner, 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 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 at Magisterial Level -II, 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.

30.06.2017
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