

Crl.MP.No.12869 of 2019 & 12871/2019 in Cr.RC.No.886 of 2019

A.D.JAGADISH CHANDIRA, J.

1. This Criminal Miscellaneous Petition has been filed to suspend the sentences, imposed on the Petitioner in Crl.A.No.25/2018, by the learned Additional District and Sessions Judge, Hosur, by judgement, dated 28.06.2019, confirming the judgment dated 11.05.2018 passed in CC.No.482/2015 by the learned District Munsif cum Judicial Magistrate, Denkanikottai, and to enlarge the Petitioner on bail, pending disposal of the above Criminal Revision Case.
2. Crl.MP.No12871/2019 has been filed for exempting the Petitioner from his surrender, pursuant to the Judgement of conviction and sentence, passed by the learned Additional District and Sessions Judge, Hosur, by judgement, dated 28.06.2019, pending disposal of the Criminal Revision Case.
3. This court heard the learned counsel on either side and also perused the materials placed on record.
4. The facts, in a nutshell, are that the Petitioner/ accused had availed Loan to the tune of Rs.1,75,000/- from the Respondent/ complainant who was running a Finance Company in the name and style as "Vairavel Finance" on three occasions, viz., 27.01.2014, 19.06.2014 and 22.09.2014 and that on demand, the Petitioner/ accused had issued three cheques bearing Nos.10012670, 10012665 and 10012663, dated 16.10.2015. When the said cheques were presented on 16.10.2015 for encashment, they were returned

unpaid on the ground of insufficient funds, on 27.10.2015. Hence, a legal notice dated 28.10.2015 was issued by the complainant. Thereafter, no reply was received from the Petitioners/ accused. Hence, the complainant had filed a private complaint for the offences under Sections 138 and 142 of the Negotiable Instruments Act, before the District Munsif cum Judicial Magistrate, Denkanikottai, in CC.No.482/2015, wherein the Petitioner was found guilty for the offence under Section 138 of the Negotiable Instruments Act and convicted and sentenced him to undergo one year Simple Imprisonment. As against the said judgement of conviction and sentence, the Petitioner/ accused had preferred an appeal in CA.No.25/2018, before the Additional District and Sessions Judge, Hosur, and the said appeal was dismissed, by the impugned judgement. Hence, the above Criminal Revision Case has been filed, along with above Crl.MP, seeking the relief as stated above.

5. The learned counsel for the Petitioner/accused would submit that there are arguable points available in the Criminal Revision Case and that the revision petitions is not likely to be taken for final hearing in the near future and that the Petitioners have got a fair chance of succeeding in the Criminal Revision Case and would pray that the substantive sentence imposed against the Petitioner/accused may be suspended. He would further submit that the Petitioner is prepared to pay 50% of the cheque amount without prejudice to his rights

6. Considering the facts and circumstances of the case and also considering the submission of the learned counsel for the Petitioner/ accused that there are arguable points involved in the revision petition and further, the revision petition is not likely to be taken up for final hearing in the near future, this Court is of the view that the Petitioner/ accused herein is entitled to the relief of suspension of sentence. Accordingly, the substantive sentences of imprisonment imposed on the Petitioner / accused alone are hereby suspended, till the disposal of the Criminal Revision Case and the reliefs of exemption from surrender before the Court, suspension of sentence and bail are granted on the following conditions :-

- a) The Petitioner/ accused shall deposit 50% of the cheque amounts (in all Rs.1,75,000/-), namely, Rs.87,500/- (Rupees Eighty Seven Thousand Five Hundred Only) before the Trial Court, within four weeks from the date of receipt of a copy of this order and on such deposit being made the Trial Court shall redeposit the said amount in a fixed deposit account in any nationalised bank, so that the amount accrues interest. The disbursal of this amount shall be decided at the culmination of the revision petition. Thereafter, the Petitioner/ accused is ordered to be released on bail, on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the District Munsif cum Judicial Magistrate, Denkanikottai.
- b) The Petitioner/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and

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the Magistrate may obtain a copy of his Aadhaar Card or Bank pass Book to ensure his identities.

- c) The Petitioner/ accused shall appear before the Trial Court at 10.30 a.m. on the first working day of every month, until the disposal of the revision petition and if he is not able to appear before the Trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.PC. and shall appear before the Trial Court on any other day in lieu of the date of his absence, as directed by the Trial Court.
- d) On the failure of the Petitioner/accused, depositing the said amount, it is open to the Trial Court to commit the Petitioner/ accused into custody for undergoing the sentence.

7. Post the matter on 14.10.2019 for reporting compliance.

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10.09.2019

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