

Crl.MP.Nos.14912, 14923 & 14927 of 2019 in
Crl.RC.Nos.1101 to 1103 of 2019

A.D.JAGADISH CHANDIRA, J.

1. These criminal miscellaneous petitions have been filed by the petitioners/Accused, seeking to suspend the modified suspension of sentence of imprisonment, imposed by the judgments, dated 27.08.2019 made in C.A.No.542, 544 & 543 of 2018, by the XV Additional Sessions Court, Chennai against the judgement made by the learned Metropolitan Magistrate (FTC-2) Egmore at Allikulam, Chennai in CC.Nos.1818/2015, 7961/2014 & 7960/2014, pending disposal of the Criminal Revision Cases.
2. This Court heard the learned counsel on either side and also perused the materials placed on record.
3. In and by all the impugned judgements, for non-payment of the cheque amount in question, viz. Rs.11,79,550/-, the petitioners/ accused was convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, to undergo one year Simple Imprisonment and to pay a fine of Rs.6,00,000/- (Rupees Six Lakh Only) each, as compensation to the Respondent/complainant, in default, to undergo three weeks Simple Imprisonment.
4. The learned counsel for the petitioners would submit that in all these cases the value of the cheque together works out to Rs.11,79,550/-.The first petitioners is a company and the second and third petitioners are Directors of the company. He would submit that an employee of the company has

committed misappropriation of the money belonging to the company, as a result of which, the company sustained huge loss to the extent of more than Rs.1 Crore and thereby the company was unable to pay the dues to the customers. He would submit that even before the Appellate Court, the respondent/complainant did not appear. He would submit however without prejudice to the contentions, the petitioners 2 and 3 are prepared to deposit 12.5% of the cheque amount in respect of all the three cases.

5. The total value of the cheques in of all the three cases works out to Rs.11,79,000/-, this Court rounds off the amount to Rs.12 Lakhs and the petitioners are liable to deposit a sum of Rs.1.5 lakhs each before the trial Court. According to the learned counsel for the petitioners/ accused, there are arguable points available in the Criminal Revision Case, which is not likely to be taken for final hearing in the near future and the petitioners/ accused has got a fair chance of succeeding in the Criminal Revision Case and hence, the substantive sentence imposed against the petitioners/Accused may be suspended and the petitioners may be exempted from surrendering before the Trial Court.

6. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel on either side, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Revision Case, the reliefs of exemption from surrender before the Trial Court, suspension of sentence and bail are granted, on the following

conditions :-

- a) The petitioners/Accused shall deposit Rs.1,50,000/- (Rupees One Lakh and fifty thousand Only) each, before the Trial Court, to the credit of CC.Nos.1818/2015, 7961/2014 & 7960/2014, 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 nationalized bank, so that the amount accrues interest. The disbursal of this amount shall be decided at the culmination of the Criminal Revision Case. Thereafter, the petitioners/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 Metropolitan Magistrate (Fast Track-II) Egmore, Allikulam , Chennai.
 - b) The petitioners/Accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.
 - c) The petitioners/Accused shall appear before the Trial Court at 10.30 a.m. on the first working day of every month, until further orders.
 - d) On the failure of the petitioners/Accused, depositing the said amount, it is open to the Trial Court to commit the petitioners/accused into custody for undergoing the sentence.
7. Post the matter on 20.11.2019 for reporting compliance.

23.10.2019

jrs

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