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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

CrI.M.P.Nos.1111 & 1112 of 2022

in

CrI.R.C.No.109 of 2022

1. M/s.S.L.Suhail Ahmed & Sons
Rep by its Authorised signatory,
L.Suhail Ahmed
No.17, Karpuraq Street,
Perimet, Chennai - 600 003.

2. L.Suhail Ahmed

...Petitioners in both
Petitions

Vs.

M/s. Eastern Tech & Co.,
Rep by its partner
V.N.Mohamed Hussain,
Having office at Old No.328/5
New No.106, T.T.K.Road,
Royapettah,
Chennai - 600 014.

... Respondent in both
Petitions

COMMON PRAYER: Criminal Miscellaneous Petitions filed under Section 397 & 397 r/w 482 of Cr.P.C to suspend the sentence imposed in C.C.No.3617 of 2014 on 24.01.2017 on the file of the learned Fast Track Court-I, (Magistrate Level), Egmore, Chennai as confirmed by the judgment dated 07.12.2021 made in Criminal Appeal No.32 of 2017 passed by the learned IV Additional Session Judge at Chennai, and to exempt the petitioner from surrendering pending disposal of the above Criminal Revision Petition.

For Petitioners : Mr.K.Karthik

For Respondent : Mr.Ms.R.Jeevitha

For M/s. Gnanadesikan Law Associates



COMMON ORDER

These Criminal Miscellaneous Petitions have been filed by the petitioners/accused, seeking suspension of sentence imposed by the learned IV Additional Session Judge, Chennai, in C.A.No.32 of 2017 dated 07.12.2021, by confirming the judgment and sentence passed in C.C.No.3617 of 2014 dated 24.01.2017 by the learned Metropolitan Magistrate, Fast Track Court-I, (Magistrate Level) Egmore, Chennai, and enlarge the petitioner on bail and seeking to exempt the petitioners from surrendering before the trial court pending disposal of the above revision petition

2. The petitioners herein are the accused in C.C.No.3617 of 2014 on the file of the learned Metropolitan Magistrate, Fast Track Court-I, (Magistrate Level) Egmore, Chennai. The first petitioner is a company represented by the second petitioner. They were found guilty of the offence under Section 138 of NI Act and the second petitioner has been convicted and sentenced as under:

S.No.	Conviction	Sentence
1	Section 138 of NI Act	to undergo simple imprisonment for a period of four months and to pay Rs.6,76,601/- as compensation to the complainant under Section 357(3) of Cr.P.C., in default to undergo a simple imprisonment for one month.

Aggrieved against the same, the petitioners had filed appeal in C.A.No.32 of 2017 and the learned IV Additional Session Judge, Chennai, by order dated 07.12.2021, had dismissed the appeal and confirmed the conviction and sentence, against which the present revision has been filed.

3. According to the learned counsel for the petitioners/accused, there are arguable points available in the Criminal Revision Case and the petitioners/accused have 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 second petitioner may be exempted from surrendering before the Trial Court. He would submit that the petitioners are ready to abide the condition imposed by this Court.

4. Heard the learned counsel appearing for the petitioners and also perused the materials placed on record.

5. The learned counsel appearing for the petitioners also filed a memo dated 25.03.2022, stating that the conditional order dated 16.02.2022 has been complied with.



6. The said memo is recorded. Since the petitioners have already been deposited 10% of the cheque amount before the first appellate Court and also further deposited a sum of Rs.2,00,000/- in the same Court on 16.03.2022, the further direction is not needed.

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7. Considering the facts and circumstances of the case, also considering the submissions of the learned counsel for the petitioners, further this revision is not likely to be taken for final hearing in the near future, 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 suspension of sentence, exemption from surrendering and bail are granted on the following conditions:

(a) Since the petitioners have already deposited 10% of the cheque amount and also a sum of Rs.2,00,000/- before the Metropolitan Magistrate, Fast Track Court-I (Magisterial level), Egmore, Chennai, the said Court shall redeposit the amount deposited by the petitioner/accused, 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. The second petitioner/accused is ordered to be released on bail, on his executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Metropolitan Magistrate, Fast Track Court-I, Magisterial level, Egmore, Chennai,

(b) The second petitioner/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 second petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the revision petition and if she is not able to appear before the trial Court on any day, she shall make arrangements to file an application under Section 317 Cr.P.C. 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.

8. With the above directions, these Criminal Miscellaneous Petitions are ordered.

-sd/-

28/03/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.



1 THE METROPOLITAN MAGISTRATE,
FAST TRACK COURT-I (MAGISTRATE LEVEL),
EGMORE AT ALLIKULAM, CHENNAI.

2 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI. [FOR INFORMATION]

3 THE IV ADDITIONAL SESSION
JUDGE AT CHENNAI.

C.C. to M/S K.KARTHIK Advocate on payment of necessary charges

Order

in
CRL MP.Nos.1111 & 1112 of 2022

in
Crl.R.C.No.109 of 2022

Date :28/03/2022

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RW 30/03/2022