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Crl.M.P.No.8951 of 2022 in Crl.R.C.No.889 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.M.P.No.8951 of 2022

in

Crl.R.C.No.889 of 2022

K.Sivakumar

... Petitioner

Versus

M.L.Chandran

... Respondent

Prayer: Criminal Miscellaneous Petition is filed under Section 397(1) of the Cr.P.C., to suspend the sentence imposed in the Judgment passed in C.A.No.86 of 2021 dated 09.05.2022 on the file of the Sessions Judge, Special Court for Trial of Cases Registered Under SC/ST (POA) Act, at Namakkal in confirming the order of conviction dated 26.04.2021 passed in S.T.C.No.40 of 2019 on the file of the Judicial Magistrate Court at Paramathi and sentencing the petitioner to undergo one month simple imprisonment under Section 138 of the Negotiable Instruments Act, 1882 and to pay compensation of Rs.3,00,000/- under Section 357(3) of the Criminal Procedure Code, 1973 and in default, simple imprisonment for 1 month punished under Section 431 of the Criminal Procedure Code, 1973 read with Section 64 of the Indian Penal Code, 1860 and enlarge the petitioner on bail pending disposal of the above Criminal Revision Petition before this Court.

For Petitioner : Mr.R.Jayaprakash



Crl.M.P.No.8951 of 2022 in Crl.R.C.No.889 of 2022

ORDER

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In this case, the learned counsel for the petitioner would submit that the petitioner is Government Servant and he may lose his job in the event of his surrender.

2. The case of the complainant is that the petitioner had borrowed a sum of Rs.3,00,000/- from the respondent. Of which, he already deposited a sum of Rs.60,000/- to the credit of S.T.C.No.40 of 2019 on the file of the Judicial Magistrate Court, Paramathi. He would further submit that he is willing to deposit the entire balance amount and he does not have any objection for the complainant to withdraw the entire amount deposited and he also submits that the complainant should give an affidavit of undertaking that if the petitioner succeeds in the main revision case, the complainant/respondent will re-pay the entire amount deposited by the petitioner.

3. Heard the learned Counsel for the petitioner.

4. In view of the above, treating this case as an extraordinary case



Crl.M.P.No.8951 of 2022 in Crl.R.C.No.889 of 2022

WEB COPY

that the petitioner is exempted from surrendering and the sentence is suspended, pending disposal of the main Criminal Revision Case and bail granted to the petitioner on the following conditions:-

(a) the petitioner 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 Trial Court;

(b) the petitioner and the sureties shall affix their photographs and left thumb impressions in the surety bonds and the learned Magistrate may obtain a copy of their Aadhar Cards or Bank Pass books to ensure their identities;

(c) the sentence is suspended on condition that the petitioner shall deposit the balance amount of Rs.2,40,000/- to the credit of S.T.C.No.40 of 2019 on the file of the Judicial Magistrate Court, Paramathi, within a period of four weeks from the date of receipt of a copy of this order;

(d) On such deposit being made, the complainant/respondent will be entitled to withdraw the entire sum of Rs.3,00,000/- by filing an affidavit of undertaking before the trial Court that if the petitioner succeeds in this revision case, he will repay the said sum of Rs.3,00,000/- back to the petitioner;



Crl.M.P.No.8951 of 2022 in Crl.R.C.No.889 of 2022

WEB COPY

(e) It is also made clear that there will not be any further extension of time. If the petitioner fails to deposit the balance amount of Rs.2,40,000/- to the credit of S.T.C.No.40 of 2019, on the file of the Judicial Magistrate Court, Paramathi, this order of suspension of sentence shall stand automatically vacated.

(f) the 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 Criminal Appeal 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.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.

5. This Criminal Miscellaneous Petition is ordered accordingly.

11.07.2022

Index : Yes / No

Speaking order : Yes / No

ssn



Crl.M.P.No.8951 of 2022 in Crl.R.C.No.889 of 2022

WEB COPY

To

1. The Sessions Judge, Special Court for Trial of Cases
Registered Under SC/ST (POA) Act,
Namakkal.
2. The Judicial Magistrate Court,
Paramathi.
3. The Public Prosecutor,
High Court of Madras.



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Crl.M.P.No.8951 of 2022 in Crl.R.C.No.889 of 2022

D.BHARATHA CHAKRAVARTHY, J.,

ssn

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