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Crl.M.P.No.19664 of 2022 in Crl.R.C.No.1651 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 23.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.19664 of 2022
in Crl.R.C.No.1651 of 2022

Baskar

... Petitioner

Vs.

Viswanathan

... Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 397(1) of Criminal Procedure Code, pleaded to suspend the sentence imposed in the Judgment passed in C.A.No.32 of 2021 dated 23.11.2022 on the file of the III Additional Sessions Judge at Kallakurichi in confirming the order of conviction dated 02.08.2021 passed in C.C.No.76 of 2017 on the file of the Judicial Magistrate (Fast Track Court) at Kallakurichi and sentencing the petitioner to undergo one year rigorous imprisonment under Section 138 of the Negotiable Instruments Act, 1881 and to pay compensation of Rs.5,00,000/- within period of 3 months under Section 357(3) of the Criminal Procedure Code, 1973 and in default, simple imprisonment for 2 months and enlarge the petitioner on bail pending disposal of the above Criminal Revision Petition before this Hon'ble Court.

For Petitioner

: Mr.R.Jayaprakash



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ORDER

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This petition has been filed to suspend the sentence imposed on the petitioner by the Trial Court in C.C.No.76 of 2017, vide judgement dated 02.08.2021, which was confirmed by the first Appellate Court in CrI.A.No.32/2021 vide judgment dated 23.11.2022, pending disposal of the Criminal Revision Petition.

2. The learned Judicial Magistrate, Fast Track Court, Kallakurichi, by judgment dated 02.08.2021 in C.C.No.76/2017, convicted the petitioner for the offence punishable under Section 138 of Negotiable Instruments Act and sentenced him to undergo one year rigorous imprisonment and also directed him to pay the cheque amount of Rs.5,00,000/- as compensation to the complainant under Section 357(3) of Cr.P.C. within 3 months, in default, to undergo 2 months simple imprisonment. Challenging the above judgment, the petitioner preferred an appeal in CrI.A.No.32/2021, which was also confirmed by the learned III Additional District and Sessions Judge, Kallakurichi District, vide judgment dated 23.11.2022.

3. Challenging the conviction and sentence slapped by the Trial Court and the first Appellate Court, the petitioner is before this Court.



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4. The learned counsel for the petitioner submitted that there are arguable points in this Criminal Revision Petition and hence, prayed for suspension of sentence.

5. I have perused the impugned judgments and the materials on record.

6. Taking into consideration of the above submission of the learned counsel appearing on both sides, this Court finds that the petitioner has substantial grounds in this Criminal Revision Petition, which require detailed appraisal. Therefore, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence.

7. Accordingly, it is ordered as follows.

(i) The substantive sentence of imprisonment alone is suspended and the petitioner shall surrender before the Trial Court within two weeks from the date of receipt of a copy of this order and on such surrender, the petitioner 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 each for a like sum to the satisfaction of the learned Judicial Magistrate, Fast Track*



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(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

(iii) The petitioner shall appear before the Trial Court, as and when required.

23.12.2022
(2/3)

mst

To

- 1.The III Additional District and Sessions Judge,
Kallakurichi District.
- 2.The Judicial Magistrate (Fast Track Court), Kallakurichi.
- 3.The Public Prosecutor, High Court, Madras.



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V.SIVAGNANAM, J.

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