



Crl.M.P.No.5778 of 2023 in Crl.RC.No.745 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.M.P.No.5778 of 2023

in

Crl.RC.No.745 of 2023

R. Palanisamy

.. Petitioner

/vs/

C. Arumugam

.. Respondent

Prayer : Criminal Miscellaneous Petition filed under section 397 (1) of Cr.P.C., to suspend the sentence imposed on the petitioner by the Judicial Magistrate No.II, Mettur, Salem District made in C.C.No.177 of 2013 by judgment dated 31.10.2022, as confirmed by the appellate court in C.A.No.109 of 2022 on the file of Additional District and Sessions Court, (Fast Track Court), Mettur, Salem District dated 15.03.2023, pending disposal of the criminal revision petition.

For Petitioner ... Mr. M.Venkatesh

For respondent ... Mr.Lenin Babu
(undertakes to file vakalat)

ORDER

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed on the petitioner by judgment dated 31.10.2022 in C.C.No.177 of 2012, on the file of Judicial Magistrate No.II,



Mettur, Salem District, which was confirmed by the judgment of Additional District and Sessions Court (Fast Track Court) Mettur, Salem District in C.A.No.109 of 2022, dated 15.03.2023 and enlarge the petitioner on bail pending disposal of the above Criminal Revision Case.

2. The petitioner, who is sole accused in C.C.No.177 of 2019 was convicted and sentenced by the trial court on 31.10.2022 as follows:

<i>Petitioner's Rank</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Sole accused	U/s.138 of NI Act	To undergo SI for one year and to pay a compensation of Rs.7,50,000/- to the complainant within a period of 30 days from the date of judgment, in default, to undergo SI for three months

3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner by the trial court, he preferred Criminal Appeal in Crl.A.No.109 of 2022 before the Additional District and Sessions Court (Fast Track Court), Mettur, Salem District, who, by the judgment dated 15.03.2023, confirmed the conviction and sentence imposed by the trial court. Challenging the above conviction and sentence, the petitioner has filed the present Crl.R.C. along with the instant miscellaneous petition, seeking suspension of sentence and bail.



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4. The learned counsel for the petitioner submitted that the judgments of the trial court and lower appellate court are contrary to law, weight of evidence and probabilities of the case. He further submitted that he is disputing the liability to pay the cheque amount of Rs.7,50,000/- and there are arguable points in this Revision and the petitioner has every chance to succeed in this Criminal Revision Case. Thus, he prayed for suspension of sentence till the disposal of this Criminal Revision case.

5. Mr. Lenin Babu, learned counsel who takes notice for the respondent through Video Conferencing, submitted that before the trial court, the accused has admitted his liability of payment of cheque amount by deposing that the signatures found in Ex.P.1 and Ex.P.2 cheques belongs to him, hence, some amount may be directed to be deposited before the trial court.

6. Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the respondent and perused the materials available on record.

7. The petitioner has raised substantial grounds in the Revision which



require detailed appraisal. Further, the Revision is not likely to be taken up in the near future. As contended by the learned counsel for the respondent, during trial, since the petitioner has admitted his liability of payment of cheque amounts, he is directed to deposit 20% of the disputed cheque amount before the trial court in C.C.No.177 of 2012. In such view of the matter, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail.

7. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:

- (i) The petitioner shall surrender before the Judicial Magistrate No.II, Mettur, Salem District 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 executing an own bond for a sum of Rs.10,000/-(Rupees ten thousand only) to the satisfaction of the abovesaid Court.
- ii) The petitioner shall affix his photograph and Left Thumb Impression in the bond and the abovesaid Court may obtain a copy of Aadhaar card or Bank pass Book to ensure the identity; and
- iii) The petitioner is directed to deposit 20% of the disputed cheque amount before the trial court in C.C.No.177 of 2013



within a period of six weeks from the date of receipt of a copy of this order.

WEB COPY (iv) The petitioner shall appear before the trial Court as and when required.

25.04.2023

msr

To

1. The Judicial Magistrate No.II, Mettur, Salem District.
2. The Additional District and Sessions Court (Fast Track Court), Mettur, Salem District



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V.SIVAGNANAM, J.

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