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CrL.MP.No.5831 of 2023
in CrL.RC.No.756 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.MP.NO.5831 OF 2023

IN

CRL.RC.NO.756 OF 2023

1.M/s.Thirupathi Brothers Film Media Pvt. Ltd.,
Represented by its Managing Director
Nammalvar Lingusamy
Registered Office at No.16, Lamech Street,
Janaki Nagar, Valasaravakkam,
Chennai – 600 087.

2.Nammalvar Lingusamy

3.Nammalvar Subash Chandra Bose

... Petitioners

Vs.

M/s.PVP Capital Limited
Represented by its Authorised Signatory
Mr.Ramasamy
No.2, Harrington Road,
KRM Centre, 9th Floor, Chetpet,
Chennai – 600 031.

... Respondent



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PRAYER: Criminal Miscellaneous Petition filed under Sections 397(1) and 439 Cr.P.C. to suspend the execution of sentence passed in C.C.No.2443 of 2016 dated 22.08.2022 on the file of FTC-III, Metropolitan Magistrate, Saidapet, Chennai, confirmed in CrL.A.No.202 of 2022 dated 12.04.2023 by the learned Principal Session Judge, Chennai and enlarge the petitioner on bail pending disposal of the above Criminal Revision Case.

For Petitioners : Mr.R.John Sathyan
Senior Counsel
for Mr.D.Prabhu Mukunth Arunkumar

For Respondent : Mr.R.Parthasarathy
Senior Counsel
(through Video Conferencing)

ORDER

This Criminal Miscellaneous Petition has been filed by the petitioners to suspend the execution of sentence passed in C.C.No.2443 of 2016 dated 22.08.2022 by the learned Metropolitan Magistrate, FTC-III, Saidapet, Chennai, which was confirmed in CrL.A.No.202 of 2022 dated 12.04.2023 by the learned Principal Sessions Judge, Chennai and to enlarge them on bail pending disposal of the above Criminal Revision Case.



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2.The Trial Court, by its order dated 22.08.2022, passed in C.C.No.2443 of 2016, has convicted the petitioners for the offence punishable under Section 138 of the Negotiable Instruments Act. Since the first petitioner / first accused is a Company, the Trial Court sentenced the second petitioner / second accused and third petitioner / third accused under Section 255(ii) Cr.P.C., to undergo six months Simple Imprisonment and the first, second and third accused shall each ordered to pay fine of Rs.10,000/-, in default, to undergo one month Simple Imprisonment and first, second and third accused shall each ordered to pay compensation of Rs.35,00,000/-, Rs.50,00,000/- and Rs.50,00,000/- respectively, totalling Rs.1,35,00,000/- (Rupees One Crore and Thirty Five Lakhs Only) to the respondent / complainant under Section 357 Cr.P.C., in default, the second and third accused shall each undergo two months Simple Imprisonment. Challenging the same, the petitioners preferred an appeal in CrL.A.No.202 of 2022 before the learned Principal Sessions Judge, Chennai and the same was dismissed on 12.04.2023.



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3.Challenging the judgment of conviction and sentence, the petitioners have filed the present Criminal Revision along with the instant petition, seeking to suspend the sentence of imprisonment.

4.The learned Senior Counsel for the petitioners raised some objections with regard to the legality of the conviction and submitted that there are arguable points in this Criminal Revision Petition and hence, prayed for suspension of sentence till the disposal of the Criminal Revision.

5.Heard the learned Senior Counsel appearing for the petitioners and the learned Senior Counsel for the respondent, who appeared through video conferencing and perused the impugned judgments and the materials available on record.

6.Though the learned Senior Counsel for the petitioners challenged the legality of the conviction, he had not disputed the money transactions between the petitioners/accused and the respondent/complainant. It is also brought to the notice of this Court that they have already deposited



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20% of the cheque amount and that they are now ready and willing to deposit 20% of the remaining amount and thus, seeks to suspend the sentence.

7.At this juncture, the learned Senior Counsel for the respondent seeks permission of this Court to withdraw 20% of the cheque amount already deposited by the petitioners/accused before the Trial Court, with interest accrued thereon, if any. The learned Senior Counsel for the petitioners has no objection for the same.

8.Taking into consideration of the above submission and also accepting the contention of the learned Senior Counsel for the petitioners, this Court finds that the petitioners have substantial grounds in this Criminal Revision Case, which require detailed appraisal and this Court is of the view that the petitioners are entitled to the relief of suspension of sentence.

9.Accordingly, till the disposal of the Criminal Revision Case, the suspension of sentence and bail are granted, on the following conditions:-



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(i) The substantive sentence of imprisonment alone is suspended and the petitioners 2 and 3 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 petitioners are ordered to be released on bail on their executing own bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each to the satisfaction of the Metropolitan Magistrate, Fast Track Court III, Saidapet, Chennai - 600 015.

(ii) The petitioners shall deposit 20% of the cheque amount within a period of six weeks from the date of receipt of a copy of this order to the credit of C.C.No.2443 of 2016, before the learned Metropolitan Magistrate, Fast Track Court – III, Saidapet, Chennai.

(iii) The petitioners shall affix their photograph and Left Thumb Impression in the bond and the Trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity.



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(iv) The petitioners shall appear before the Trial Court as and when required.

10.The respondent is permitted to withdraw 20% of the cheque amount already deposited by the petitioners before the Trial Court in CC.No.2443 of 2016 on 23.11.2022, with interest accrued thereon, if any, by filing a Memo without issuing any notice to the petitioners / accused.

11.The Criminal Miscellaneous Petition is accordingly ordered.

24.04.2023

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TK

To

1.The Principal Sessions Judge
Chennai.

2.The Metropolitan Magistrate
Fast Track Court III
Saidapet, Chennai.

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V.SIVAGNANAM, J.

TK

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