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Crl.MP.No.6192 of 2023 in Crl.RC.No.801 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.MP.NO.6192 OF 2023
IN CRL.RC.NO.801 OF 2023

Benny @ Benny J Samraj

... Petitioner

Vs.

R.Guru Shadraque

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 397 Cr.P.C. to suspend the sentence imposed on the petitioner by the learned Judicial Magistrate, Maduranthakam made in C.C.No.145/2018 dated 21.01.2021 and sentencing him to undergo six months Rigorous Imprisonment and to pay a sum of Rs.6,00,000/- as compensation (double the amount of the cheque amount Rs.3,00,000/-) under Section 357 Cr.P.C. Which was confirmed by the learned Principal District and Sessions Judge, Kancheepuram District at Chengalpattu made in C.A.No.5 of 2021 dated 10.04.2023 and enlarge the petitioner on bail pending disposal of the above Criminal Revision.

For Petitioner : Mr.T.R.Ravi



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ORDER

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This Criminal Miscellaneous Petition has been filed by the petitioner seeking to suspend the sentence imposed on the petitioner by the learned Judicial Magistrate, Maduranthakam made in C.C.No.145/2018 dated 21.01.2021 and sentencing him to undergo six months Rigorous Imprisonment and to pay a sum of Rs.6,00,000/- as compensation (double the amount of the cheque amount Rs.3,00,000/-) under Section 357 Cr.P.C. which was confirmed by the learned Principal District and Sessions Judge, Kancheepuram District at Chengalpattu in C.A.No.5 of 2021 dated 10.04.2023 and enlarge the petitioner on bail pending disposal of the above Criminal Revision.

2.The Trial Court, by its order dated 21.01.2021 passed in C.C.No.145 of 2018 convicted the petitioner for the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced him to undergo SIX months Rigorous Imprisonment and the accused was directed to pay a sum of Rs.6,00,000/- i.e., double the cheque amount of Rs.3,00,000/- as compensation to the respondent / complainant. Against which, the petitioner



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preferred an appeal in Criminal Appeal No.5 of 2021 and the same was dismissed on 10.04.2023 by the Appellate Court. In the meantime, the sentence imposed on the petitioner was suspended by the Appellate Court on 12.03.2021 in Crl.M.P.No.1250 of 2021.

3.Challenging the judgment of conviction and sentence, the petitioner preferred the present Criminal Revision along with the instant Criminal Miscellaneous Petition, seeking to suspend the sentence of imprisonment.

4.The allegation against the petitioner is that he had borrowed a sum of Rs.3,00,000/- (Rupees Three Lakhs Only) from the respondent / complainant, as hand loan, to meet out his family expenses. Subsequently, he issued a cheque bearing No.667191 dated 02.05.2018 for a sum of Rs.3,00,000/- drawn on Axis Bank, Madurantagam Branch, in order to discharge his liability. When the respondent presented the cheque for realization, the same was returned with an endorsement "*Refer to Drawer*". Again on instruction from the petitioner, the respondent represented the



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cheque on 25.07.2018 and the same was returned with an endorsement

“Payment stopped by the drawer”. Thereafter, the respondent issued a legal notice on 28.07.2018 to the petitioner. Since no payment was made, a complaint has been filed against the petitioner herein. Therefore, there are some arguable points in favour of the petitioner in the Criminal Revision Case and hence, prayed for suspension of sentence.

5.Heard the learned counsel appearing for the petitioner and perused the impugned judgments and the the materials available on record.

6.Taking into consideration of the above submission of the learned counsel appearing for the petitioner, this Court finds that the petitioner has substantial grounds in this Criminal Revision Case, 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, till the disposal of the Criminal Revision, the suspension of sentence and bail are granted to the petitioner, on the following conditions:-

(i) The substantive sentence of imprisonment



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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 own bond for a sum of Rs.10,000/- (Rupees Ten thousand only) to the satisfaction of the learned Judicial Magistrate, Maduranthakam.

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

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

8.The Criminal Miscellaneous Petition is ordered accordingly.



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28.04.2023

(5/8)

TK

To

- 1.The Judicial Magistrate
Maduranthakam.
- 2.The Principal District and Sessions Judge
Kancheepuram District at Chengalpattu



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V.SIVAGNANAM, J.

TK

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