



WEB COPY



Crl.MP.No.6371 of 2023 in Crl.RC.No.778 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.MP.NO.6371 OF 2023
IN CRL.RC.NO.778 OF 2023

1.M/s.J.D.Multi Specialty Medical Centre (P) Ltd.,
Rep. By its Authorized Signatory
D.Ebenezer Daniel Raj
Dental Hospital
Kamaraj Nagar, Madukkarai Market Road,
SIDCO Post, Coimbatore – 641 021.

2.D.Ebenezer Danieal Raj ... Petitioners

Vs.

S.Selvaraj ... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Sections 397(1) Cr.P.C. to suspend the sentence passed in C.A.No.233 of 2019 dated 27.02.2023 on the file of learned V Additional District and Session Judge, Coimbatore, confirming the judgment made in C.C.No.243 of 2016 dated 26.06.2019 by the learned Judicial Magistrate Level, Fast Track – II, Coimbatore and enlarge him on bail pending disposal of Criminal Revision Petition No.778 of 2023.

For Petitioner : Mr.M.N.Balakrishnan



Crl.MP No.6371 of 2023 in Crl.RC.No.778 of 2023

ORDER

WEB COPY

This Criminal Miscellaneous Petition has been filed by the petitioner seeking to suspend the sentence imposed in C.A.No.233 of 2019 dated 27.02.2023 by the learned V Additional District and Session Judge, Coimbatore, confirming the judgment passed in C.C.No.243 of 2016 dated 26.06.2019 by the learned Judicial Magistrate Level, Fast Track – II, Coimbatore and enlarge him on bail pending disposal of the above Criminal Revision Case.

2.The Trial Court, by its order dated 26.06.2019 passed in C.C.No.243 of 2016 convicted the second petitioner for the offence punishable under Section 138 of the Negotiable Instruments Act and sentenced him to undergo six months simple imprisonment and the accused was directed to pay the cheque amount of Rs.2,00,000/- with 6% interest per annum from the date of cheque payable to the complainant within one month from the date of judgment, failing which, undergo three months simple imprisonment. Against which, he preferred an appeal in C.A.No.233 of 2019 and the same was dismissed on 27.02.2023 by the Appellate Court. Thereby,



Crl.MP No.6371 of 2023 in Crl.RC.No.778 of 2023

the order dated 26.06.2019 passed by the Trial Court in C.C.No.243 of 2016 is confirmed in Criminal Appeal No.233 of 2019 dated 27.02.2023.

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

4.The learned counsel for the petitioners submitted that the second petitioner borrowed a sum of Rs.2,00,000/- on 03.02.2015 from the respondent in order to develop the first petitioner hospital and issued a cheque bearing No.001994 dated 09.06.2015 drawn on ICICI Bank, Sundarapuram Branch, Coimbatore. When the cheque was presented in the bank for realization, the same was returned with an endorsement “*funds insufficient*”. Hence, the respondent / complainant issued a legal notice on 16.06.2015 and the same was replied by the petitioner on 22.06.2015. Therefore, there are some arguable points in favour of the petitioner in the Criminal Revision Case and hence, prayed for suspension of sentence.



Crl.MP No.6371 of 2023 in Crl.RC.No.778 of 2023

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

6.Taking into consideration of the above submission of the learned counsel appearing for the petitioners, this Court finds that the petitioners have substantial grounds in this Criminal Revision Case, which require detailed appraisal. Therefore, this Court is of the view that the petitioners are entitled to the relief of suspension of sentence.

7.Accordingly, till the disposal of the Criminal Revision, the suspension of sentence on the following conditions:-

(i) The substantive sentence of imprisonment alone is suspended and the second 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 second 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 Level, Fast Track Court – II, Coimbatore.



Crl.MP No.6371 of 2023 in Crl.RC.No.778 of 2023

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

8.The Criminal Miscellaneous Petition is ordered accordingly.

28.04.2023

(2/2)

TK

To

1.The V Additional District and Session Judge
Coimbatore.

2.The Judicial Magistrate Level
Fast Track – II
Coimbatore.

5/6



WEB COPY



Crl.MP.No.6371 of 2023 in Crl.RC.No.778 of 2023

V.SIVAGNANAM, J.

TK

CRL.MP.NO.6371 OF 2023
IN CRL.RC.NO.778 OF 2023

28.04.2023

(2/2)