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Crl.M.P.Nos.7246 & 7247 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.05.2023

CORAM

THE HON'BLE MR. JUSTICE A.A.NAKKIRAN

Crl.M.P.No.7246 & 7247 of 2023

in

Crl.A.No.894 of 2023

Muthusamy
S/o.Karupaiya

... Petitioner

Vs.

Sumathi
W/o.Selvam

... Respondent

PRAYER in Crl.M.P.No.7246 of 2023: Criminal Miscellaneous Petition filed under Section 389(1) & (2) of Cr.P.C., pleaded to suspend the sentence and conviction passed by the II Additional District and Sessions Judge, Ranipet, Vellore in C.A.No.122 of 2022 dated 21.04.2023, dismissing the appeal and confirming the order of Judicial Magistrate No.2, Walajapet, dated 08.09.2022 in S.T.C.No.73 of 2020, under Section 138 of Negotiable Instruments Act and enlarge the petitioner on bail till the disposal of the revision.



Crl.M.P.Nos.7246 & 7247 of 2023

PRAYER in Crl.M.P.No.7247 of 2023: Criminal Miscellaneous Petition filed under Section 389(1) & (2) of Cr.P.C., pleaded to exempt from surrendering the petitioner before the Judicial Magistrate No.2, Walajapet in S.T.C.No.73 of 2020.

For Petitioner : M/s.R.Radha Pandian
For Respondent : Mr.S.Vinoth Kumar
Government Advocate
(Criminal Side)

ORDER

These Criminal Miscellaneous Petitions have been filed by the petitioner, seeking suspension of sentence and exemption from surrendering the petitioner before the trial Court, pursuant to the order imposed by the learned II Additional District and Sessions Judge, Ranipet, Vellore in C.A.No.122 of 2022 dated 21.04.2023, dismissing the appeal and confirming the order of the learned Judicial Magistrate No.2, Walajapet, dated 08.09.2022 in S.T.C.No.73 of 2020.

2. The conviction and sentence imposed against the petitioner is as follows:-



Crl.M.P.Nos.7246 & 7247 of 2023

<i>Under Section</i>	<i>Sentence</i>
Under Section 138 of NI Act	Three months simple imprisonment with a fine of Rs.20,10,000/-.
357(1)(b) of Cr.P.C	In default to pay the said fine amount to the appellant/accused is sentenced to three months of simple imprisonment and on payment of the said fine, the said amount to be paid to the complainant as compensation.

3. Learned counsel for the petitioner submitted that the petitioner is a sole bread winner of his family and he also states that there are arguable points available in the Criminal Revision Case, which is not likely to be taken for final hearing in the near future and the petitioner has got a fair chance of succeeding in the Criminal Revision Case and hence, he prayed that the sentence imposed against the petitioner may be suspended and the petitioner may also be exempted from surrendering before the Trial Court.

4. Learned Government Advocate (Criminal Side) appearing for the respondent submitted that the prosecution has proved the case beyond reasonable doubts and the trial Court on finding the petitioner guilty, convicted him as stated above. Therefore, he vehemently oppose for grant of suspension of sentence and exemption from surrendering before the trial



Court.

5. Heard the learned counsel for the petitioner and Government Advocate (Criminal Side) appearing for the respondent and perused the materials on record.

6. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner, this Court is of the view that the sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Revision Case, the reliefs of suspension of sentence, exemption from surrendering are granted on the following conditions:

- i. The petitioner shall execute bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only), with two sureties, each for a like sum to the satisfaction of the learned II Additional District and Sessions Judge, Ranipet, Vellore District;
- ii. The petitioner is directed to deposit 20% of the fine amount of Rs.20,10,000/- to the credit of the learned Judicial Magistrate No.2, Walajapet.
- iii. The petitioner shall appear before the Trial Court



Crl.M.P.Nos.7246 & 7247 of 2023

on the first working day of every English Calendar month at 10.30 a.m., until further orders.

7. Accordingly, these Criminal Miscellaneous Petitions are ordered.

18.05.2023
(2/2)

Jeni/arb

To

- 1.The II Additional District and Sessions Judge,
Ranipet,
Vellore District.
- 2.The Judicial Magistrate II,
Walajapet,
Vellore.
- 3.The Public Prosecutor,
High Court of Madras.



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A.A.NAKKIRAN, J.

Jeni/arb

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Crl.R.C.No.894 of 2023

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(2/2)