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Criminal Original Petition No.20501 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Criminal Original Petition No.20501 of 2023

- 1.M/s.Emfinity India IT Solution Pvt. Ltd. (closed company),
represented by its Director and CEO,
Mr.Karthick Raj Gnanamohan
No.14, Gandhim Pudur, Peelamedu,
Coimbatore - 641 015.
and at SNT Tower, 2nd Floor,
MTP Road, Murugan Nagar,
Thoppampatti Pirivu, Vadamadurai,
Coimbatore - 641 017.
- 2.Mr.Karthick Raj Gnanamohan
S/o.Gnanamohan previously at D-7, Raja Rajeswari Nagar,
Thoppampatti, Coimbatore - 641 017.
and at SNT Tower, 2nd Floor,
MTP Road, Murugan Nagar,
Thoppampatti Pirivu, Vadamadurai,
Coimbatore - 641 017.
and now residing at
No.E-5, Anandhaya Villas,
Mestri Gounder Thottam,
Thudiyalur Kanuvai Road, Pannimadai Post,
Coimbatore - 641 017.

...Petitioners

Vs



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Monexo Fintech Pvt. Ltd.,
Having registered office at
No.174/2, 26th East Street,
Kamaraj Nagar, Thiruvananmiyur,
Chennai - 600 041.
represented by its Authorized Representative
cum Co-Founder, Mr.M.Sundar

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to set aside the order passed by learned Principal Sessions Judge, Chennai, in CrI.M.P.No.1 of 2023 in C.A.No.491 of 2023 dated 29.08.2023 and consequently, suspend the sentence imposed on the petitioner passed by learned Metropolitan Magistrate, FTC II, Egmore @ Allikulam, Chennai, made in C.C.No.4438 of 2019.

For Petitioners : Mr.A.R.Suresh

ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below dismissing the petition filed by the petitioners in CrI.M.P.No.1 of 2023 in C.A.No.491 of 2023, dated 29.08.2023 seeking for suspension of sentence pending CrI.A.No.491 of 2023.



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2. The petitioners were convicted for offence u/s.138 of the Negotiable Instruments Act and were sentenced to undergo 6 months simple imprisonment and to pay the cheque amount as compensation and in default to undergo 2 months simple imprisonment. This judgment was passed by learned Metropolitan Magistrate, FTC II, Egmore, on 26.07.2023. While passing this judgment, the trial Court itself had suspended the sentence till 24.08.2023.

3. Aggrieved by the above judgment, the petitioner filed an appeal before the Court below in CrI.A.No.491 of 2023. Pending the appeal, the petitioner filed a petition seeking for suspension of sentence. The Court below dismissed the petition on the ground that the period for which the trial Court had granted suspension of sentence had already expired. Aggrieved by the same, the present petition has been filed before this Court.

4. Heard learned counsel for petitioners and carefully perused the materials available on record.



5. Taking into consideration the facts and circumstances of the case, this Court is inclined to dispose of the present petition in the following terms:

- (a) the petitioners are directed to surrender before the XXII Additional City Civil Court, Chennai, on or before 11.09.2023 and file a bail application before the concerned Court;
- (b) the petitioners shall deposit 20% of the compensation amount fixed by the trial Court within a period of 60 days, to the credit of C.C.No.4438 of 2019;
- (c) the XXII Additional City Civil Court, Chennai, shall grant interim bail to the petitioners for a period of 60 days;
- (d) if the petitioners deposit the compensation amount within the period of 60 days fixed by this Court, the bail order shall be made absolute by imposing necessary conditions; and
- (e) if the petitioners fail to deposit the compensation amount as directed by this Court, interim bail order shall stand cancelled and the Court below



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shall make the petitioners to undergo the sentence imposed by the trial Court.

Accordingly, this Criminal Original Petition is disposed of.

05.09.2023

Note: Issue order copy by 07.09.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
gm

To

- 1.The Principal Sessions Judge,
Chennai.
- 2.The Metropolitan Magistrate,
FTC II, Egmore @ Allikulam,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH, J

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