



Crl.M.P.No.3882 of 2023 in
Crl.R.C.No.504 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.MP No.3882 of 2023 in
Crl.RC No.504 of 2023

B.Dharmalingam

... Petitioner

Vs.

A.Jenine

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389 of Cr.P.C. to suspend the sentence imposed on the petitioner by the learned V Additional District & Sessions Judge of Coimbatore in CA No.148 of 2019 dated 28.07.2022 thereby, confirming the judgment dated 02.04.2019 in CC No.162 of 2018 passed by the Judicial Magistrate , FTC-Level II, Coimbatore and enlarge the petitioner on bail, pending disposal of the above Criminal Revision Case.

For Petitioner : Mr.V.S.Kesavan

For Respondent :No appearance

ORDER

1 of 6



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This petition has been filed to suspend the sentence imposed on the petitioner by the learned V Additional District & Sessions Judge of Coimbatore in CA No.148 of 2019 dated 28.07.2022 thereby, confirming the judgment dated 02.04.2019 in CC No.162 of 2018 passed by the learned Judicial Magistrate, FTC-Level II, Coimbatore and enlarge the petitioner on bail, pending disposal of the above Criminal Revision Case.

2.The learned Judicial Magistrate, FTC-Level II, Coimbatore, vide judgment dated 02.04.2019 passed in C.C.No.162 of 2018, convicted the petitioner for the offence punishable under Section 138 of Negotiable Instruments Act and sentenced him to undergo six months simple imprisonment and to pay the cheque amount of Rs.2,50,000/- as compensation alongwith interest @ 6% from the date of the cheque under Section 357 of Cr.P.C. to the complainant, in default, to undergo 3 months simple imprisonment.

3.Challenging the above judgement, the petitioner preferred an appeal in C.A.No.148 of 2019, on the file of the learned V Additional District & Sessions



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Judge of Coimbatore and the learned V Additional District & Sessions Judge of Coimbatore confirmed the judgement of the trial Court vide judgment dated 28.07.2022.

4. Aggrieved by the judgment of conviction passed by the Trial Court as well as lower Appellate Court, the petitioner filed the present Criminal Revision Case along with the instant petition, seeking to suspend the sentence of imprisonment.

5. The learned counsel for the petitioner submitted that the judgement of the trial Court as well as the lower Appellate Court is contrary to law, weight of evidence and probabilities of the case. He would further submit that there are arguable points in the above Criminal Revision Case and the petitioner has every chance to succeed in this Criminal Revision Case. He further submitted that already, the petitioner has paid the fine amount and hence, prayed for suspension of sentence.



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

7. 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 Petition, which require detailed appraisal. Therefore, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence.

8. Accordingly, it is ordered as follows.

(i) The substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute his own bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) to the satisfaction of the learned Judicial Magistrate, FTC-Level II, Coimbatore.

(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



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Book to ensure his identity.

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

17.03.2023

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Issue on 20.03.2023

To

1. The learned Judicial Magistrate, FTC-Level II, Coimbatore
2. The learned V Additional District & Sessions Judge of Coimbatore
3. The Public Prosecutor, High Court of Madras, Chennai.
4. The Superintendent, Central Prison, Coimbatore.



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V.SIVAGNANAM, J.,

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