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Crl.MP.No.16766 of 2022 in Crl.RC.No.1477 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.MP.NO.16766 OF 2022
IN CRL.RC.NO.1477 OF 2022

V.Naveen

... Petitioner

Vs.

1.S.Kalidass

2.State by

The Public Prosecutor
Coimbatore.

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Sections 397(1) Cr.P.C. to suspend the sentence imposed on the petitioner in the judgment dated 07.10.2021 made in C.A.No.566 of 2018 on the file of III Additional District and Sessions Judge, Coimbatore, confirming the judgment dated 01.12.2018 made in C.C.No.365 of 2017 on the file of the learned Judicial Magistrate, Fast Track Court Magisterial Level – 2, Coimbatore and enlarge the petitioner on bail pending disposal of the above Criminal Revision Case.

For Petitioner : Mr.N.Ponraj

For Respondent-2 : Mr.R.Vinothraja
Government Advocate (Criminal Side)



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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 him in the judgment dated 07.10.2021 passed in C.A.No.566 of 2018 by the learned III Additional District and Sessions Judge, Coimbatore, confirming the judgment dated 01.12.2018 passed in C.C.No.365 of 2017 on the file of the learned Judicial Magistrate, Fast Track Court Magisterial Level – 2, Coimbatore and enlarge the petitioner on bail pending disposal of the above Criminal Revision Case.

2.The Trial Court, by its order dated 01.12.2018 passed in C.C.No.365 of 2017 convicted the 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.1,47,000/- 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, the petitioner preferred an appeal in Criminal Appeal No.566 of 2018 and the same was dismissed on 07.10.2021 by the Appellate Court. Thereby,



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the order dated 01.12.2018 passed by the Trial Court in C.C.No.365 of 2017 was confirmed in Criminal Appeal No.566 of 2018 dated 07.10.2021.

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 learned counsel for the petitioner submitted that there was no transaction between the parties and the cheque has been misused and the present complaint has been filed to get lawful gain. 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 the learned Government Advocate (Criminal Side) appearing for the second respondent 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



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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 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, Fast Track Court Magisterial Level-2, 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 Book to ensure his identity.



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

8.The Criminal Miscellaneous Petition is ordered accordingly.

26.04.2023

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TK

To

- 1.The III Additional District and Sessions Judge
Coimbatore.
- 2.The Judicial Magistrate
Fast Track Court Magisterial Level – 2
Coimbatore.
- 3.The Public Prosecutor
Coimbatore.
- 4.The Public Prosecutor
High Court of Madras
Chennai.

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V.SIVAGNANAM, J.

TK

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