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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30-11-2023

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Crl. OP Nos.25956, 25958 and 25961 of 2023

Mr.Kamal Kamesh

... Petitioner in all Crl.OPs

Vs.

Mr.Navneeth Ahmed

... Respondent in all Crl.OPs

Crl.OP No.25956 of 2023 has been filed under Section 482 of the Code of Criminal Procedure, to set aside the dismissal order passed in the suspension petition application in Crl.MP No.3934 of 2023 in Crl.A.No.147 of 2023 dated 16.10.2023 on the file of the learned Principal Sessions Judge, Vellore.



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Crl.OP No.25958 of 2023 has been filed under Section 482 of the Code of Criminal Procedure, to set aside the dismissal order passed in the suspension petition application in Crl.MP No.3935 of 2023 in Crl.A.No.148 of 2023 dated 16.10.2023 on the file of the learned Principal Sessions Judge, Vellore.

Crl.OP No.25961 of 2023 has been filed under Section 482 of the Code of Criminal Procedure, to set aside the dismissal order passed in the suspension petition application in Crl.MP No.3936 of 2023 in Crl.A.No.149 of 2023 dated 16.10.2023 on the file of the learned Principal Sessions Judge, Vellore.

For Petitioner in all Crl.OPs : Mr.M.Mohana Sundaram

COMMON ORDER

The petitioner herein, being the accused in three complaints initiated under Section 138 of the Negotiable Instruments Act, 1881, in STC Nos.327, 328 and 329 of 2021 in respect of cheques for Rs.1,00,000/-, Rs.2,00,000/- and Rs.2,00,200/-, was found guilty by the Court below and



was sentenced to undergo six months simple imprisonment and to pay the cheque amounts with interest to the complainant, within a period of one month, in default to undergo two months simple imprisonment and with costs.

2. Being aggrieved by, the petitioner has preferred Criminal Appeal Nos.147, 148 and 149 of 2023 on the file of the learned Principal Sessions judge, Vellore. Along with the above three Criminal Appeals, the petitioner has sought for suspension of sentence and the same was dismissed by the Court below. The petition filed by the petitioner for suspension of sentence under Section 389(1) of Cr.P.C., was dismissed by the Lower Appellate Court on 16.10.2023 on the ground that NBW is pending against the petitioner and therefore, the petition for suspension will not be entertained.

3. The learned counsel, appearing on behalf of the petitioner, submitted that the petitioner filed the appeal along with the application for suspension of sentence, within the time stipulated, but it was taken for consideration after the issuance of NBW. The petitioner, being the



practising Dentist, if suspension of sentence is not granted to him, his reputation will be badly affected.

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4. On going through the records, this Court finds that the three cheques respectively for Rs.1,00,000/-, Rs.2,00,000/- and Rs.2,00,200/- given by the petitioner herein to the complainant, were returned with an endorsement 'Without Fund' and therefore, he has been sentenced to undergo imprisonment and also to pay compensation of the cheque amount with interest at 6% per annum and the cost of Rs.3,000/-.

5. Since the appeal filed by him has already been admitted, he may be released on bail and sentence may be suspended provided he deposits 20% of the compensation amount and the cost imposed on him in each case, within a period of seven days from today. The petitioner is directed to deposit 20% of the compensation amount awarded by the Trial Court along with costs before the Trial Court in the CC Account, within a period of seven days and on proof of such deposits, the Lower Appellate Court shall entertain his application for suspension of sentence and suspend the sentence on other usual conditions.



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6. With the above directions, all the three Criminal Original
Petitions stand disposed of.

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Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
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To

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- 1.The Principal Sessions Judge,
Vellore.
- 2.The Additional District Munsif cum
Judicial Magistrate,
Ambur.
- 3.The Public Prosecutor,
High Court of Madras,
Chennai.



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DR.G.JAYACHANDRAN, J.

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