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IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 05.07.2024

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

Crl.M.P.Nos.152 and 153 of 2022
in Crl.RC.No.16 of 2022

D.Vijayaraj

...Petitioner

Vs.

The Inspector of Police,
CCIW-CCID,
Coimbatore.
Cr.No.01/2014

...Respondent

Crl.MP.No.152 of 2022: Criminal Miscellaneous Petition filed under Section 397(1) of Criminal Procedure Code praying to suspend the sentence imposed on the petitioner judgment made in Crl.A.No.260 of 2019 on the file of the IV Additional District and Sessions Court, Coimbatore dated 08.11.2021 confirming the conviction and sentence imposed on him by judgment made in CC.No.41 of 2014 on the file of the learned Judicial Magistrate-IV, Coimbatore dated 17.07.2019.

Crl.MP.No.153 of 2022: Criminal Miscellaneous Petition filed under Section 482 of Criminal Procedure Code, to exempt the petitioner from surrendering in Crl.A.No.260 of 2019 on the file of the IV Additional District and Sessions Court, Coimbatore dated 08.11.2021 confirming the conviction and sentence imposed on him by judgment made in CC.No.41



of 2014 on the file of the learned Judicial Magistrate-IV, Coimbatore dated 17.07.2019.

For Petitioner : Mr.B.Kumarasamy

For Respondent : Mr.A.Gopinath

Government Advocate (Crl. Side)

ORDER

The petitioner has filed Crl.MP.No.152 of 2022 to suspend the sentence imposed on the petitioner in Crl.A.No.260 of 2019 on the file of the IV Additional District and Sessions Court, Coimbatore dated 08.11.2021 confirming the conviction and sentence imposed on him by judgment made in CC.No.41 of 2014 on the file of the learned Judicial Magistrate-IV, Coimbatore dated 17.07.2019.

2. The petitioner was working as a Clerk in Coimbatore District Local Library Authority Employees Cooperative Thrift & Credit Society as daily wages. The petitioner along with other accused have conspired together and misappropriated a sum of Rs.74,000/- of the Bank. Thereby, the petitioner has committed offence punishable under Section 408 and 477 A of IPC.



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3. Before the trial Court, the revision petitioner was found guilty under Section 408 and 477A of IPC and he was convicted and sentenced to undergo two years each and pay a sum of Rs.1000/- each. Aggrieved by the same, the present revision has been filed along with the petition seeking suspension of sentence.

4. The learned counsel for the petitioner submit that the petitioner is an innocent and he has been falsely implicated in this case and he was nothing to do with the alleged offences. There are lot of material contradictions in the evidence of the respondent and the same is highly unbelievable. However, the petitioner is ready to abide any condition imposed by this Court.

5. The learned Government Advocate submitted that if the petitioner will pay the misappropriated amount, he has no objection to grant bail to the petitioner.

6. Heard both sides and perused the materials available on record.



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7. Having regard to the fact that there are arguable points involved in the revision and further, the petitioner has come forward to pay some misappropriated amount, I am of the considered opinion that the revision petitioner is entitled for the relief of suspension of sentence.

8. The sentence imposed by the Court below dated 08.11.2021 made in Crl.A.No.260 of 2019 on the file of the learned IV Additional District and Sessions Court, Coimbatore is suspended, subject to the following conditions :-

"(a) The petitioner is directed to deposit a sum of Rs.50,000/- (Rupees Fifty thousand only) in CC.No.41 of 2014 on the file of the learned Judicial Magistrate-IV, Coimbatore within a period of four weeks from the date of receipt of copy of this order.

(b) The petitioner shall execute a bail bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate-IV, Coimbatore. This bail bond shall be entertained only after the deposit of the money specified in clause (a).



(c) *The petitioner shall appear before the learned Judicial Magistrate-IV, Coimbatore on the first working day of the every English Calendar Month at 10.30 am, until further orders; and*

(d) *If the petitioner fails to deposit the amount and execute the bail bond as stipulated in Clause (a) and (b), the order of interim suspension of sentence shall stand cancelled automatically without reference to this Court. "*

9. Accordingly, Crl.MP.No.152 of 2022 is ordered. However, this Court is not inclined to entertain the exemption petition and the same is dismissed.

05.07.2024

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Note: Issue order copy on 08.07.2024

Index : Yes/No
Speaking Order : Yes/No
NCC : Yes/No

M.DHANDAPANI, J.
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1. The Judicial Magistrate-IV, Coimbatore.
2. The IV Additional District and Sessions Judge, Coimbatore.
3. The Inspector of Police, CCIW-CCID, Coimbatore.
4. The Public Prosecutor, High Court of Madras, Chennai – 600 104.

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