



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 03.07.2024

CORAM:

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

Crl.M.P.No.894 and 896 of 2024
in Crl.RC.No.109 of 2024

C.Eswaran

...Petitioner

Vs.

M.Subbarayan

...Respondent

Crl.MP.No.894 of 2024: Criminal Miscellaneous Petition filed under Section 397(1) of Criminal Procedure Code praying to suspend the sentence in C.A.No.35 of 2021 dated 01.12.2023 on the file of the learned Principal Sessions Judge, Tiruppur confirming the conviction and sentence passed by the learned Fast Track Court at Magisterial Level, Tiruppur in CC.No.69 of 2015 dated 15.04.2021 and enlarge the petitioner on bail.

Crl.MP.No.896 of 2024: Criminal Miscellaneous Petition filed under Section 482 of Criminal Procedure Code praying to exemption of surrendering to the petitioner/accused in order of dismissal passed in C.A.No.35 of 2021 dated 01.12.2023 on the file of the learned Principal Sessions Judge, Tiruppur confirming the conviction and sentence passed by the learned Fast Track Court at Magisterial Level, Tiruppur in CC.No.69 of 2015 dated 15.04.2021.

For Petitioner : Mr.V.Logesh



WEB COPY

ORDER

The petitioner has filed the Criminal Miscellaneous petition to suspend the sentence in C.A.No.35 of 2021 dated 01.12.2023 on the file of the learned Principal Sessions Judge, Tiruppur confirming the conviction and sentence passed by the learned Fast Track Court at Magisterial Level, Tiruppur in CC.No.69 of 2015 dated 15.04.2021.

2. The revision petitioner was convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo six months simple imprisonment and to pay a fine of Rs.5,00,000/- as compensation, in default, to undergo SI for one month. Aggrieved by the same, the present revision has been filed along with the petition seeking suspension of sentence.

3. The learned counsel for the petitioner submit that there are lot of material contradictions in the evidence of the respondent and the same is highly unbelievable. It is further submitted that apprehending arrest, the present petition for suspension of sentence is filed and the petitioner is



WEB COM

not in jail. However, the petitioner has already paid 20% of the cheque amount and now he is ready to pay 30% of the cheque amount in the credit of the case before the lower Court.

4. Having regard to the fact that there are arguable points involved in the revision and further, the petitioner has come forward to pay 50% of the fine amount, I am of the considered opinion that the revision petitioner is entitled for the relief of suspension of sentence.

5. The sentence imposed by the Court below dated 01.12.2023 made in C.A.No.35/2021 on the file of the learned Principal Sessions Judge, Tiruppur is suspended, subject to the following conditions :-

"(a) The petitioner is directed to deposit 30% of the cheque amount in C.C.No.69 of 2015 on the file of the learned Fast Track Court, Magisterial Level Tiruppur within a period of two weeks from the date of receipt of copy of this order.



WEB COPY

(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 Fast Track Court, Magisterial Level Tiruppur. 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 learned Fast Track Court, Magisterial Level Tiruppur 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 and the learned Magistrate, shall immediately issue non-bailable warrant and secure*



WEB COPY

the petitioner to serve the sentence imposed against the petitioner."

6. Crl.MP.No.894 of 2024 is ordered accordingly. However, this Court is not inclined to dismiss the petition in Crl.MP.No.896 of 2024 and the same is dismissed.

03.07.2024
(2/2)

Note: Issue order copy on 03.07.2024

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

To

- 1.The Judge, Fast Track Court, Magisterial Level Tiruppur.
2. The Principal Sessions Judge, Tiruppur.
3. The Public Prosecutor,
High Court of Madras,
Chennai – 600 104.



WEB COPY



M.DHANDAPANI, J.
rli

CrI.M.P.No.894 and 896 of 2024
in CrI.RC.No.109 of 2024

03.07.2024