



Crl.M.P.No.542 of 2021 In Crl.R.C.No.42 of 2021

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**In**  
**Crl.R.C.No.42 of 2021**

**M.DHANDAPANI,J.**

Petitioner was convicted for an offence under Section 138 of the Negotiable Instruments Act and was sentenced to undergo ten months simple imprisonment and to pay a compensation of Rs.4,60,000/- to the complainant within one month in default to undergo two month simple imprisonment by the learned Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai, under judgment dated 14.08.2018 in C.C.No.110 of 2016. The conviction and sentence imposed by the trial Court was confirmed by the learned XVII Additional City Civil Court, Chennai, under judgment in Crl.A.No.466 of 2018 dated 18.12.2018. Hence, the petitioner seeks suspension of sentence.

2.The learned counsel for the petitioner would submit that this Court on 25.01.2021 directed the petitioner to deposit the entire compensation awarded by the learned Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai, under judgment dated



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14.08.2018 in C.C.No.110 of 2016 and granted an order of suspension of substantive sentence alone till 25.02.2021. Since the petitioner was not in a position to deposit the entire compensation, he could not deposit the same and since he did not deposit the compensation amount, this Court on 26.02.2021 directed the learned Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai, to execute the order in C.C.No.110 of 2016. The learned counsel further submitted that the petitioner is under financial constraint and hence he could not deposit the entire compensation amount.

3.The learned counsel for the petitioner would further submit that there are several infirmities and inconsistencies found in the prosecution case. It is contended that there are contradictions in the material particulars between the evidence of the prosecution witnesses. It is further represented that there is no precondition requiring the petitioner's surrender or being in confinement in availing the relief of suspension of sentence under Section 397 Cr.P.C. in exercise of revisional powers by this Court. The decisions of the Honourable Apex Court in **BIHARI PRASAD SINGH VS STATE OF**



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**BIHAR AND ANOTHER (2000 SCC (Cri) 1380)** and that of the **IBRAHIM VS STATE OF KERALA (1979 KLT 857)** are relied upon in this regard.

4.Heard the submissions made by the learned counsel appearing for the respondent.

5.The above decisions have been relied upon time and again by this Court towards reaching the conclusion that in moving a revision against conviction, the accused need not surrender and undergo confinement before seeking the relief of suspension of sentence pending disposal of the Criminal Revision.

6.Therefore, in view of the fact that there are several infirmities in the prosecution case and there are arguable points involved in the revision, as contended by learned counsel for petitioner and also considering the inconvenience expressed on behalf of the petitioner, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.



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7. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to deposit 50% of the compensation amount i.e., a sum of Rs.2,30,000/- (Rupees Two Lakhs and Thirty Thousand Only) on or before 28.07.2024 to the credit of C.C.No.110 of 2016 on the file of the learned Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai, failing which, the suspension of substantive sentence of imprisonment alone granted today, shall stand automatically vacated, without any further reference to this Court and the petitioner is further directed to appear before the trial Court and execute a 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 Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.30a.m. pending revision.

**04.07.2024**

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**Note:** Post the matter 'for reporting compliance' on 29.07.2024.



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