



Crl.M.P.Nos.2860 and 2862 of 2024
in
Crl.R.C.No.304 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**Crl.M.P.Nos.2860 and 2862 of 2024
in
Crl.R.C.No.304 of 2024**

1.M/s.Best Properties Private Limited,
Rep.by its Partners

2.M.Ashok Kumar

3.D.Balamurugan

... Petitioners in both petitions

Vs.

K.Ravikumar

... Respondent in both petitions

PRAYER in Crl.M.P.No.2860 of 2024 : Criminal Miscellaneous Petition filed under Section 482 of Criminal Procedure Code, to grant exemption from surrendering of the petitioners before the learned VI Additional Sessions Judge, Chennai in C.A.No.236 of 2019, vide judgment dated 26.07.2023, confirming the conviction and sentence passed by the learned Metropolitan Magistrate, Fast Track Court No.II, Egmore, Allikulam, Chennai, in C.C.No.7250 of 2014 dated 29.04.2019, pending disposal of the above criminal revision.

PRAYER in Crl.M.P.No.2862 of 2024 : Criminal Miscellaneous Petition



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filed under Section 397(1) of Criminal Procedure Code, to suspend the sentence imposed on the petitioners in Crl.A.No.236 of 2019 on the file of the learned VI Additional Sessions Judge, Chennai dated 26.07.2023, confirming the conviction and sentence passed by the learned Metropolitan Magistrate, Fast Track Court No.II, Egmore, Allikulam, Chennai, in C.C.No.7250 of 2014 dated 29.04.2019 and enlarge the petitioners on bail, pending disposal of the above criminal revision.

For Petitioners
in both petitions : Mr.T.Arokia Dass
for M/s.Dass and Viswa Associates

COMMON ORDER

Crl.M.P.No.2860 of 2024 has been filed seeking to exempt the petitioners from surrendering before the learned VI Additional Sessions Judge, Chennai, in connection with conviction made in C.A.No.236 of 2019 vide judgment dated 26.07.2023, confirming the conviction and sentence made in C.C.No.7250 of 2014 vide judgment dated 29.04.2019 by the learned Metropolitan Magistrate, Fast Track Court No.II, Egmore, Allikulam, Chennai.

2. Crl.M.P.No.2862 of 2024 has been filed to suspend the



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conviction and sentence imposed on the petitioners vide judgment dated 26.07.2023 passed in C.A.No.236 of 2019 by the learned VI Additional Sessions Judge, Chennai, confirming the judgment dated 29.04.2019 passed in C.C.No.7250 of 2014 by the learned Metropolitan Magistrate, Fast Track Court No.II, Egmore, Allikulam, Chennai, pending disposal of the criminal revision case and enlarge the petitioners on bail.

3. The petitioners 2 and 3 were convicted for the offence under Section 138 of the Negotiable Instrument Act and sentenced to undergo simple imprisonment for a period of one year and to pay a sum of Rs.10,00,000/- towards compensation to the complainant, in default, to undergo simple imprisonment for a further period of three months vide judgment dated 29.04.2019 passed in C.C.No.7250 of 2014, against which, appeal was filed in C.A.No.236 of 2019 before the learned VI Additional Sessions Judge, Chennai, and the same was dismissed. Aggrieved by the same, the revision petition has been filed along with the present petition to suspend the sentence.



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4. The learned counsel for the revision petitioners would submit that the petitioners have already paid a sum of Rs.7 Lakhs of the cheque amount and they are agreed to pay a sum of Rs.8 Lakhs and that there are lot of material contradictions in the evidence of the prosecution and the prosecution evidence is also highly unbelievable. It is further submitted that apprehending arrest, the present petition for suspension of sentence is filed and the petitioners are not in jail.

5. Having regard to the fact that there are arguable points involved in the revision and further, the revision is not likely to be taken up for final hearing in the near future, I am of the considered opinion that the petitioners are entitled for the relief of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone as against the petitioners are hereby suspended on the following conditions:

(a) the petitioners 2 and 3 shall deposit a sum of



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Rs.8 Lakhs to the credit of C.C.No.7250 of 2014 on the file of the learned Metropolitan Magistrate, Fast Track Court No.II, Egmore, Allikulam, Chennai within a period of two weeks from the date of receipt of a copy of this order.

(b) the petitioners 2 and 3 shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) to the satisfaction of the learned Metropolitan Magistrate, Fast Track Court No.II, Egmore, Allikulam Chennai, along with two sureties for a like sum;

(c) the petitioners 2 and 3 shall report before the Court below on the first working day of every month at 10.30 a.m., until further orders.

7. Crl.M.P.No.2862 of 2024 is ordered accordingly. However, this Court is not inclined to exempt the petitioners from surrendering before the Court below. Hence, Crl.M.P.No.2860 of 2024 is dismissed.



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

ssb / vji

Note: Issue order copy by 06.08.2024

To

1. The learned Metropolitan Magistrate,
Fast Track Court-II, Egmore,
Allikulam, Chennai.



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2. The VI Additional Sessions Judge,
Chennai.

3. The Public Prosecutor,
Madras High Court.



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