



Crl.M.P.No.2512 of 2024 in Crl.R.C.No.264 of 2024

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M.NIRMAL KUMAR, J.

The petitioner/A2 was convicted by the learned Judicial Magistrate No.II, Walajahpet (trial Court) in C.C.No.66 of 2010 *vide* judgment, dated 25.04.2023 and sentenced to undergo three months Simple Imprisonment and to pay a fine of Rs.45,00,000/- as compensation to the respondent with an interest rate of 9% per annum from the date of dishonour of cheque, in default to undergo two weeks Simple Imprisonment. Aggrieved over the same, the petitioner preferred an appeal before the II Additional District and Sessions Judge, Vellore @ Ranipet (lower appellate Court) in Crl.A.No.93 of 2023 and the same was dismissed *vide* judgment, dated 06.01.2024 confirming the judgment of the trial Court. Challenging the same, the present criminal revision is filed.

2.This Court on 21.03.2024 had passed the following order in Crl.R.C.No.264 of 2024:

“The petitioner/accused in a case under Section 138 of



Negotiable Instruments Act filed by the respondent in C.C.No.66 of 2010 was convicted by the learned Judicial Magistrate No.II, Walajahpet [trial Court] and sentenced to undergo three months simple imprisonment and to pay a compensation of Rs.45,00,000/- with interest @ 9% per annum from the date of dishonour to the complainant within one month, in default, to undergo two weeks simple imprisonment. Against which, the petitioner preferred an appeal in Crl.A.No.93 of 2023 before the learned II Additional District and Sessions Judge, Vellore at Ranipet, which was dismissed on 06.01.2024. Against which the present criminal revision petition filed along with suspension of sentence petition.

2.The contention of the learned counsel for the petitioner is that initially the respondent filed a case against the petitioner and her husband. It was the petitioner's husband who was carrying out business in the name of M/s.VArshini Equipments which had some business transaction with the respondent in supply of machinery. He would submit that the petitioner's husband due to sentimental reasons and luck used her name, other than the petitioner has got nothing to do with the business of her husband. The case against the petitioner's husband in C.C.No.66 of 2010 was quashed by this Court in Crl.O.P.No.29260 of 2011 vide order dated 20.03.2017. He further submitted that since the petitioner had signed the cheque, she is facing the above case. Earlier, the petitioner's



husband paid Rs.20,00,000/- out of the disputed amount of Rs.65,00,000/- to the respondent/complainant and now Rs.45,00,000/- is pending. He would further submit that for the same cause of action, the respondent also filed a civil suit in O.S.No.487 of 2012 which was decreed in favour of the respondent/complainant, against which, appeal suit was filed before this Court in A.S.No.325 of 2018. He would further submit that apart from the cheque, the document on which the respondent relies is that the Deed of Undertaking which is the basis against which the petitioner is being prosecuted both in the civil suit as well as in the criminal case. He would submit that the petitioner has got fair chance of succeeding in the revision case since since the respondent not complied with his part obligations and a cheque which was given at the time of entering the business contract was later filled up by the respondent and a case initiated registered which fact not considered by both the Courts below.

3.The learned counsel for the petitioner without prejudice to his rights of contention in the revision comes forwards to deposit a sum of Rs.7,50,000/- to the credit of C.C.No.66 of 2010 on the file of the learned Judicial Magistrate No.II, Walajahpet. He would submit that to show the bonafide and genuineness of the petitioner, he seeks two days time to deposit the amount before the Trial Court. His apprehension is that the Trial Court may not accept his deposit.



4.In view of the same, the learned Judicial Magistrate No.II, Walajahpet is directed to receive a sum of Rs.7,50,000/- to be deposited by the petitioner in C.C.No.66 of 2010. The learned counsel for the petitioner to produce the proof of the same in the next hearing date.

5.Post the matter on 27.03.2024.”

3.In continuation and conjunction to the above order, this Court is passing the following order.

4.Today the learned counsel for the petitioner produced demand draft for a sum of Rs.7,50,000/- before this Court and the same is handed over to the respondent/complainant. He further submitted that the petitioner has got a good case in succeeding in the present revision. In the event of succeeding the revision, it will be difficult to retrieve the amount of Rs.7,50,000/- from the respondent.

5.At this stage the learned counsel for the respondent makes very clear that the amount of Rs.7,50,000/- is subject to the outcome of the present criminal revision case.



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6.The photostat copy of the scanned reproduction of the demand draft is as follows:

7.In view of the fact that the petitioner without prejudice to his rights of contention in the revision deposit Rs.7,50,000/- by way of demand draft, this Court is inclined to suspend the sentence till the disposal of the main revision.

8.Accordingly, the Substantive Sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the revision and she is ordered to be enlarged on bail, on condition that she shall execute a bond for a sum



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of Rs.10,000/- (Rupees ten thousand only) with two sureties, each for a like sum to the satisfaction of the trial Court.

9.Further, the petitioner shall appear before the Trial Court on the first working day of once in three month at 10.30 a.m. until the disposal of the criminal revision and if she is not able to appear before the Trial Court on that day, she shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of her absence as directed by the Trial Court. Accordingly, this Miscellaneous Petition is ordered.

10.It is made clear that the amount of Rs.7,50,000/- deposited by the petitioner is subject to the outcome of the main criminal revision case.

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M.NIRMAL KUMAR, J.

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