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Crl.M.P.Nos.9385 and 9386 of 2024
in
Crl.R.C.No.1109 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.M.P.Nos.9385 and 9386 of 2024
in
Crl.R.C.No.1109 of 2024

M.G.Balan
S/o.Gurusamy

... Petitioner in both petitions

Vs.

M.Saravanan
S/o.Marimuthu

... Respondent in both petitions

PRAYER in Crl.M.P.No.9385 of 2024 : Criminal Miscellaneous Petition filed under Section 399(i) of Criminal Procedure Code, to suspend the sentence passed by the learned II Additional Sessions Judge, Tiruchengode in Crl.A.No.23 of 2023 dated 31.01.2024.

PRAYER in Crl.M.P.No.9386 of 2024 : Criminal Miscellaneous Petition filed under Section 482 of Criminal Procedure Code, to grant exemption from surrendering of the petitioner in pursuant to the order passed in Crl.A.No.23 of 2023 dated 31.01.2024 before the learned II Additional Sessions Judge, Tiruchengode, pending disposal of the criminal revision.



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For Petitioner
in both petitions : Mr.S.Ramesh

For Respondent
in both petitions : Mr.A.Gopinath
Government Advocate (Crl.side)

C O M M O N O R D E R

Crl.M.P.No.9385 of 2024 has been filed to suspend the conviction and sentence imposed on the petitioner vide judgment dated 31.01.2024 passed in C.A.No.23 of 2023 by the learned II Additional Sessions Judge, Tiruchengode, confirming the judgment dated 05.01.2023 passed in S.T.C.No.158 of 2020 by the learned Judicial Magistrate, Kumarapalayam, pending disposal of the criminal revision case and enlarge the petitioner on bail.

2. Crl.M.P.No.9386 of 2024 has been filed seeking to exempt the petitioner from surrendering before the learned II Additional Sessions Judge, Tiruchengode, in connection with conviction made in C.A.No.23



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of 2023 vide judgment dated 31.01.2024, confirming the conviction and sentence made in S.T.C.No.158 of 2020 vide judgment dated 05.01.2023 by the learned Judicial Magistrate, Kumarapalayam.

3. The petitioner was convicted for the offence under Section 138 of the Negotiable Instrument Act and sentenced to undergo simple imprisonment for a period of one year vide judgment dated 05.01.2023 passed in S.T.C.No.158 of 2020, against which, appeal was filed in C.A.No.23 of 2023 before the learned II Additional Sessions Judge, Tiruchengode, and the same was dismissed. Aggrieved by the same, the revision petition has been filed along with the present petition to suspend the sentence.

4. The learned counsel for the revision petitioner would submit that there are lot of material contradictions in the evidence of the prosecution and the prosecution evidence is also highly unbelievable. It is further



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submitted that apprehending arrest, the present petition for suspension of sentence is filed and the petitioner is 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 petitioner is entitled for the relief of suspension of sentence.

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

(a) the petitioner shall deposit 50% of the cheque amount to the credit of S.T.C.No.158 of 2020 on the file of the learned Judicial Magistrate, Kumarapalayam, within a period of two weeks from the date of receipt of a copy of this order.



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(b) the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) to the satisfaction of the learned Judicial Magistrate, Kumarapalayam, along with two sureties for a like sum;

(c) the Petitioner 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.9385 of 2024 is ordered accordingly. However, this Court is not inclined to exempt the petitioner from surrendering before the Court below. Hence, Crl.M.P.No.9386 of 2024 is dismissed.

**01.07.2024
(2/2)**

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

ssb

Note: Issue order copy by 02.07.2024



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To

1. The learned Judicial Magistrate, Kumarapalayam,
2. The learned II Additional Sessions Judge, Tiruchengode.
3. The Public Prosecutor,
Madras High Court,
Madras.



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M.DHANDAPANI, J.

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