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Crl.M.P.No.9793 of 2024 in Crl.R.C.No.1166 of 2024

Crl.M.P.No.9793 of 2024
in
Crl.R.C.No.1166 of 2024

M.DHANDAPANI, J.

This Criminal Miscellaneous Petition has been listed under the caption “for being mentioned” at the instance of the learned counsel for the revision petitioner on the ground that the petitioner is confined in jail, however, since the same has not been mentioned petition, an order apprehending the arrest came to be passed by this court vide order, dated 05.07.2024 made in Crl.M.P.No.9793 of 2024 in Crl.R.C.No.1166 of 2024.

2. In view of the above, this court is inclined to modify the order dated 05.07.2024 and the paragraph Nos.3 to 5 of the order shall read as follows :

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. He further submitted that **the petitioner is now confined in Central Prison I, Puzhal, Chennai. Further, he submitted that** the petitioner has already paid a sum of Rs.1,50,000/- and he is ready to pay a sum of Rs.2,00,000/- in the credit of the case before the lower Court.



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M.DHANDAPANI, J.

sp

4. 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 and also considering the fact that** the petitioner has come forward to pay Rs.2,00,000/-, 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 18.08.2023 made in C.A.No.357 of 2022 on the file of the learned XXIII Additional City Civil Court, Chennai is suspended **and the petitioner is directed to be released on bail** subject to the following conditions :-

3. Registry is directed to carry out the necessary correction in the order dated 05.07.2024 and issue a fresh copy of the order to the learned counsel for the parties and also mark a copy of the order to the Central Prison I, Puzhal, Chennai. In other respects, the earlier order dated 05.07.2024 shall remain unaltered.

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11.07.2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2024

CORAM:

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

Crl.M.P.No.9793 of 2024
in Crl.RC.No.1166 of 2024

1. M.Nachi Muthu

2. M/s.VJS Associates,
Rep. By its Proprietor,
Mr.N.Nachimuthu,
No.65, Sudharsan Nagar,
5th Street, Madambakkam,
Chennai.

...Petitioner

Vs.

Praveen Arunkumar
Rep. By his power Agent,
Mr.D.Amalanathan,
No.426/5, Royal Enclave,
3rd Avenue, Anna Nagar East,
Chennai-102.

...Respondent

Criminal Miscellaneous Petition filed under Section 389(1) of Criminal Procedure Code praying to suspend the sentence and grant bail in judgment in C.A.No.357 of 2022 dated 18.08.2023 by the learned XXIII Additional Judge, City Civil Court, Chennai dated 18.08.2023 confirming the judgment and sentence passed by the learned Metropolitan Magistrate, Fast Track Court-I, Egmore-Allikulam, Chennai, the trial court in CC.No.1507 of 2014 dated 20.10.2022 convicting the petitioner/appellant for an alleged offence under Section 138 of NI Act and sentencing the petitioner/appellant to undergo two years SI.

For Petitioner : Mr.B.Senthil Kumar



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For Respondent : Mr.P.Karunakaran

ORDER

This Criminal Miscellaneous petition has been filed to suspend the sentence and grant bail in judgment in C.A.No.357 of 2022 dated 18.08.2023 by the learned XXIII Additional Judge, City Civil Court, Chennai dated 18.08.2023 confirming the judgment and sentence passed by the learned Metropolitan Magistrate, Fast Track Court-I, Egmore-Allikulam, Chennai, the trial court in CC.No.1507 of 2014 dated 20.10.2022 convicting the petitioner/appellant for an alleged offence under Section 138 of NI Act.

2. The revision petitioner was convicted for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment for a period of two years simple imprisonment with compensation of double the cheque amount as contemplated under Section 357(3) of Cr.P.C. Read with Section 138 of NI Act and he shall undergo two years of SI for the offence under Section 138 of NI Act. Compensation of double the cheque amount shall be paid to the complainant calculating the amount mentioned in the complaint within one month in default, accused shall undergo SI for six months and the same is imposed under Section 255(2) of Cr.P.C. Aggrieved by the same, the present revision has been filed along with the petition seeking suspension of sentence.



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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 not in jail. However, the petitioner has already paid a sum of Rs.1,50,000/- and he is ready to pay a sum of Rs.2,00,000/- 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 Rs.2,00,000/-, 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 18.08.2023 made in C.A.No.357 of 2022 on the file of the learned XXIII Additional City Civil Court, Chennai is suspended, subject to the following conditions :-

"(a) The petitioner is directed to deposit a sum of Rs.2,00,000/- (Rupees Two Lakhs only) in CC.No.1507 of 2014 on the file of the learned Metropolitan Magistrate, FTC-I, Egmore @ Allikulam, Chennai-3 within a period of four weeks



from the date of receipt of copy of this order.

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(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 Metropolitan Magistrate, FTC-I, Egmore @ Allikulam, Chennai-3. 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 Metropolitan Magistrate, FTC-I, Egmore @ Allikulam, Chennai-3, 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 the petitioner to serve the sentence imposed against the



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petitioner."

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6. This petition is ordered accordingly.

05.07.2024

Note: Issue order copy on 05.07.2024

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

To

1. The Metropolitan Magistrate,
FTC-I, Egmore @ Allikulam, Chennai-3.

2. The XXIII, Additional City civil Court, Chennai.

3. The Public Prosecutor,
High Court of Madras,
Chennai – 600 104.



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