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Crl.M.P.Nos.9658 and 9660 of 2024
in
Crl.R.C.No.1159 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.M.P.Nos.9658 and 9660 of 2024
in
Crl.R.C.No.1159 of 2024

Muthuvel
S/o.Maran

... Petitioner in both petitions

Vs.

P.Rajendran
S/o.Paavadai

... Respondent in both petitions

PRAYER in Crl.M.P.No.9658 of 2024 : Criminal Miscellaneous Petition filed under Section 389(i) of Criminal Procedure Code, to suspend the sentence imposed on the petitioner in S.T.C.No.1231 of 2009 dated 23.12.2021 on the file of the learned District Munsif cum Judicial Magistrate Court, Portonovo, Cuddalore District, as confirmed by the Judgment of the learned II Additional District and Sessions Judge, Chidambaram, Cuddalore District in C.A.No.2 of 2022 dated 15.09.2023 and enlarge the petitioner on bail, pending disposal of the revision.

PRAYER in Crl.M.P.No.9660 of 2024 : Criminal Miscellaneous Petition filed under Section 482 of Criminal Procedure Code, to grant exemption



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from surrendering in S.T.C.No.1231 of 2009 dated 23.12.2021 on the file of the learned District Munsif cum Judicial Magistrate Court, Portonovo, Cuddalore District, as confirmed by the Judgment of the learned II Additional District and Sessions Judge, Chidambaram, Cuddalore District in C.A.No.2 of 2022 dated 15.09.2023 and enlarge the petitioner on bail, pending disposal of the revision.

For Petitioner
in both petitions : Mr.C.Ramkumar

COMMON ORDER

Crl.M.P.No.9658 of 2024 has been filed to suspend the conviction and sentence imposed on the petitioner vide judgment dated 15.09.2023 passed in C.A.No.2 of 2022 by the learned II Additional District and Sessions Judge, Chidambaram, Cuddalore District, confirming the judgment dated 23.12.2021 passed in S.T.C.No.1231 of 2009 by the learned District Munsif cum Judicial Magistrate Court, Portonovo, Cuddalore District, pending disposal of the criminal revision case and enlarge the petitioner on bail.



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2. Crl.M.P.No.9660 of 2024 has been filed seeking to exempt the petitioner from surrendering before the learned II Additional District and Sessions Judge, Chidambaram, Cuddalore District, in connection with conviction made in C.A.No.2 of 2022 vide judgment dated 15.09.2023, confirming the conviction and sentence made in S.T.C.No.1231 of 2009 vide judgment dated 23.12.2021 by the learned District Munsif cum Judicial Magistrate Court, Portonovo, Cuddalore District.

3. The petitioner was convicted for the offence under Section 138 of the Negotiable Instrument Act and was directed to pay a sum of Rs.4,69,000/-, in addition to a sum of Rs.5,000/- as compensation under Section 357 Cr.P.C towards the costs incurred within a period of 15 days from the date of receipt of the order, in default of payment, he shall undergo simple imprisonment for a period of one month, vide judgment dated 23.12.2021 passed in S.T.C.No.1231 of 2009, against which, appeal was



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filed in C.A.No.2 of 2022 before the learned II Additional District and Sessions Judge, Chidambaram, Cuddalore District, 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 the petitioner has already paid 20% of the cheque amount and 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 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.



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

(a) the petitioner shall deposit 30% of the cheque amount to the credit of S.T.C.No.1231 of 2009 on the file of the learned District Munsif cum Judicial Magistrate Court, Portonovo, Cuddalore District, within a period of two weeks from the date of receipt of a copy of this order.

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



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(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.9658 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.9660 of 2024 is dismissed.

**05.07.2024
(2/2)**

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

ssb

Note: Issue order copy by 08.07.2024



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To

1. The learned II Additional District and Sessions Judge, Chidambaram, Cuddalore District.
2. The learned District Munsif cum Judicial Magistrate Court, Portonovo, Cuddalore District.
3. The Public Prosecutor,
Madras High Court,
Madras.



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M.DHANDAPANI, J.

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