



Crl.M.P.No.11476 of 2024 in Crl.R.C.No.1343 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.M.P.No.11476 of 2024 in
Crl.R.C.No.1343 of 2024

A.Kesava Anandan,
S/o.Arul Lingam

... Petitioner

Vs.

Pandian.G,
S/o.Gurusamy

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 438(1) of BNSS, to suspend the sentence imposed on the Revision Petitioner in C.A.No.341 of 2022 dated 12.07.2023 on the file of the I Addl. Sessions Judge, City Civil Court, Chennai and enlarge the Revision Petitioner on bail.

For Petitioner : Mr.K.Venkatesan

For Respondent : Mr.S.N.Arun Kumar

ORDER



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This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner in C.A.No.341 of 2022 on the file of the I Additional Sessions Judge, City Civil Court, Chennai, dated 12.07.2023 confirming the conviction and sentence passed by the Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai in C.C.No.2155 of 2018, dated 31.10.2022 and enlarge the petitioner on bail pending disposal of the revision.

2.The petitioner/accused in C.C.No.2155 of 2018 was convicted by the learned Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai (Trial Court), by judgment, dated 31.10.2022 for offence under Section 138 of the Negotiable Instruments Act, 1881 and sentenced to undergo three months Simple Imprisonment and directed to pay a sum of Rs.3,75,000/- as compensation to the respondent within two months from the date of the judgment. Aggrieved over the same, the petitioner preferred an appeal before the learned I Additional Sessions Judge, City Civil Court, Chennai in C.A.No.341 of 2022 (Lower Appellate Court). The Lower Appellate Court, by judgment, dated 12.07.2023 dismissed the appeal



confirming the judgment of the trial Court.

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3.The learned counsel for the petitioner submitted that the petitioner and the respondent were known to each other and the respondent was running cement business in the name of M/s.Thirumalai Traders. The petitioner approached the respondent for supply of cement. In supply of the same, some cheques given. Since the cements supplied found to be not of quality, there was some dispute between them. For that reason, the petitioner gave stop payment. He further submitted that the Courts below failed to consider the business dispute and the petitioner is not liable to pay the cheque amount. Finding that the petitioner issued the cheque and signature not disputed, without looking into the other attendant circumstances convicted the petitioner. Against which, the present revision and suspension of sentence. He further submitted that the petitioner arrested on the conviction warrant and remanded to Central Prison, Puzhal on 18.07.2024 and he is in prison for almost 25 days. The petitioner is the only person to take of his entire family and his only daughter. During the business transaction from 01.04.2016 to 03.05.2018, the petitioner was due



to the respondent to the tune of Rs.11,25,235/-, of which Rs.7,25,235/- paid to the respondent and for balance Rs.4,00,000/-, the present cheque issued.

During the pendency of the trial, the petitioner paid Rs.25,000/- to the respondent. Hence, he prays for suspension of sentence.

4.The learned counsel for the respondent submitted that the petitioner is due to the respondent from the year 2016. Despite taking all steps, the petitioner failed to make any payment. The trial proceeded from the year 2018 to 2022 for almost four years. During this period, petitioner paid only Rs.25,000/- to the respondent. Giving credit to the same, the trial Court directed the petitioner to pay the balance amount of Rs.3,75,000/-. The Lower Appellate Court also considered the same and dismissed the appeal confirming the judgment of the trial Court. If the petitioner makes the substantial payment, the revision and suspension of sentence can be considered.

5.Considering the submissions and on perusal of the materials, it is



seen that out of the cheque amount of Rs.4,00,000/-, the petitioner already paid Rs.25,000/- to the respondent during trial. Now the petitioner agreed to pay Rs.1,75,000/- to the respondent.

6.In view of the above, the petitioner is directed to deposit a sum of Rs.1,75,000/- (Rupees one lakh seventy five thousand only) to the credit of C.C.No.2155 of 2018 on the file of the Trial Court. On such payment, the Substantive Sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the revision and he is ordered to be enlarged on bail. The petitioner shall execute a bond for a sum of Rs.5,000/- (Rupees Five Thousand only) with two sureties, each for a like sum to the satisfaction of the trial Court.

7.Further, the petitioner shall appear before the Trial Court at 10.30 a.m on the first working day of every English Calender month until the disposal of the criminal revision and if he is not able to appear before the Trial Court on that day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the Trial Court on any



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other day on the same month in lieu of the date of his absence as directed by
the Trial Court.

8.This criminal miscellaneous petition is ordered.

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Note: Issue Order Copy on 13.08.2024.

To

- 1.The I Additional Sessions Judge,
City Civil Court, Chennai
- 2.The Metropolitan Magistrate,
Fast Track Court No.IV,
George Town, Chennai.
- 3.The Central Prison,
Puzhal.



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M.NIRMAL KUMAR., J.

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