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Crl.M.P.No.11773 of 2024
in Crl.A.No.168 of 2023

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M.NIRMAL KUMAR, J.,

This petition is filed to cancel the Interim suspension of sentence granted to the Respondent/Accused (A-2) by this Hon'ble Court in Crl.M.P.No.2562 of 2023 in Crl.A.No.168 of 2023, dated 22.02.2023.

2. This Court, on 31.08.2024 and 04.09.2024, passed the following orders:-

[31.08.2024]

"The learned Additional Public Prosecutor field this miscellaneous petition seeking to cancel the interim suspension of sentence and bail granted to the respondent/appellant in Crl.M.P.No.2562 of 2023 by order dated 22.02.2023. The respondent was convicted by the trial Court in C.C.No.5 of 2017 by judgment dated 06.04.2022 and sentenced to undergo seven years rigorous imprisonment and to pay fine of Rs.65,000/- (73 counts), in



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total Rs.47,45,000/- for offence under Section 420 I.P.C., and 10 years rigorous imprisonment and to pay fine of Rs.65,000/- (73 counts), in total, Rs.47,45,000/- for offence under Section 5 of TNPID Act. Hence, the respondent to pay total fine amount of Rs.94,90,000/-, which shall be distributed to 73 victims in this case. Since the respondent was not present to receive the judgment, Non Bailable Warrant issued against the respondent.

2.He further submitted that in this case three accused were tried during trial. The first accused is Kovai Land Bankers, the second and third accused are its partners. The respondent herein is the second accused and one Sindhu is the third accused, who is the working partner. The case against third accused ended in acquittal, steps taken by the petitioner police to file an appeal against the acquittal of Sindhu. It is also learnt that some of the depositors were taking steps to file an appeal. The appeal was not pursued immediately for the reason that respondent while obtaining



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suspension of sentence had given an undertaking before this Court that he would settle the dues with his depositors. On that ground only bail was granted giving three months time to settle the dues and sentence was suspended. Thereafter, the respondent filed Crl.M.P.No.9002 of 2023 before this Court and sought extension of time and this Court by order dated 28.06.2023 granted extension of two months time. Thereafter too, the respondent not taken any steps to settle any of the depositors. Hence, the above petition has been filed.

3.Mr.R.Ganesh Kumar, learned counsel appearing for the respondent submitted that he is taking earnest efforts to settle the depositors and he will report to this Court with regard to the steps being taken and the money planned to be paid to the depositors, within a period of two weeks.

4.Post the matter on 04.09.2024.

5.The petitioner police is directed to ensure the presence of the respondent before this Court on 04.09.2024."



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[04.09.2024]

"Pursuant to the order passed by this Court on 23.08.2024, the petitioner police ensured the presence of the respondent/appellant, who is Accused No.2 in C.C.No.5 of 2017. As per the judgment of the Trial Court, the respondent/accused to pay a total fine of Rs.94,90,000/-.

2.Today, Mr.V.M.R.Rajendran and Mr.S.Sivakumar, learned counsels appearing for the respondent/A2, viz., A.Muthukumar, who is also present before this Court, filed an affidavit to the effect that Rs.20,00,000/- would be deposited before the Trial Court to the credit of C.C.No.5 of 2017 on 09.09.2024 and further undertakes to deposit another Rs.20,00,000/- on or before 30.09.2024. The same is taken on record.

3.The respondent/appellant/accused is directed to



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appear before this Court on 10.09.2024 and produce the proof of deposit of Rs.20,00,000/- and thereafter further orders will be passed.

4.Post the matter on 10.09.2024"

3. In continuation and conjunction to the earlier orders passed by this Court on 23.08.2024 and 04.09.2024, today, Mr.V.M.R.Rajendran and Mr.S.Sivakumar, learned counsels appearing for the respondent/accused submitted that the accused, Mr.A.Muthukumar was instructed by them to mobilize the funds. However, he is unable to do so. They had also informed him that if he cannot mobilize the funds, he has to surrender but he has not yet surrendered.

4. The petitioner/police submitted that the respondent/accused is now absconding from his normal abode.

5. In view of the same, Crl.MP.No.11773 of 2024 in Crl.A.No.168 of 2023 is allowed, and the interim suspension of sentence granted to the



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Respondent/Accused (A-2) by this Court in Crl.M.P.No.2562 of 2023 in Crl.A.No.168 of 2023, dated 22.02.2023, is cancelled for non-compliance with the orders of this Court and for committing fraud on this Court. Hence, the petitioner/police is directed to immediately form a team to secure and confine the accused to undergo the sentence passed by the Trial Court.

10.09.2024

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10.09.2024