



Crl.M.P.No.15670 of 2023 In Crl.R.C.No.1657 of 2023

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M.DHANDAPANI,J.

Petitioner was convicted for an offence under Section 138 of the Negotiable Instruments Act and was sentenced to undergo six months S.I. and to pay the cheque amount of Rs.1,90,000/- with interest at the rate of 6% per annum from the date of cheque as compensation to the complainant within a period of one month in default to undergo three months S.I. by the learned Judicial Magistrate, Fast Track Court No.II at Magistrate Level, Coimbatore under judgment dated 15.03.2019 in C.C.No.478 of 2014. The conviction and sentence imposed by the trial Court was confirmed by the learned IV Additional District and Sessions Judge at Coimbatore under judgment in C.A.No.142 of 2019 dated 11.08.2023. Hence, the petitioner seeks suspension of sentence.

2.Learned counsel for petitioner would submit that there are several infirmities and inconsistencies found in the prosecution case.



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It is contended that there are contradictions in the material particulars between the evidence of the prosecution witnesses. It is further represented that there is no precondition requiring the petitioner's surrender or being in confinement in availing the relief of suspension of sentence under Section 397 Cr.P.C. in exercise of revisional powers by this Court. The decisions of the Honourable Apex Court in **BIHARI PRASAD SINGH VS STATE OF BIHAR AND ANOTHER (2000 SCC (Cri) 1380)** and that of the **IBRAHIM VS STATE OF KERALA (1979 KLT 857)** are relied upon in this regard.

3.The learned counsel for petitioner would further submit that pursuant to the order of this Court dated 17.10.2023 made in Crl.M.P.No.15670 of 2023 in Crl.R.C.No.1657 of 2023, the petitioner has already deposited a sum of Rs.90,000/- before the trial Court and is now ready to deposit another Rs.1 Lakh before the trial Court. The learned counsel further submitted that on 17.10.2023, this Court suspended the sentence alone for a period of four weeks and thereafter, this Court vide order dated 22.02.2024 extended the said interim order till 18.03.2024.



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4. There is no representation for the first respondent. Heard the submissions made by the learned Government Advocate (Crl.Side) for the second respondent.

5. The above decisions have been relied upon time and again by this Court towards reaching the conclusion that in moving a revision against conviction, the accused need not surrender and undergo confinement before seeking the relief of suspension of sentence pending disposal of the Criminal Revision.

6. Therefore, in view of the fact that there are several infirmities in the prosecution case and there are arguable points involved in the revision, as contended by learned counsel for petitioner, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

7. Since the petitioner has already deposited a sum of



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Rs.90,000/- before the trial Court, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to deposit another sum of Rs.1,00,000/- (Rupees One Lakh Only) within a period of two weeks from the date of receipt of a copy of this order to the credit of C.C.No.478 of 2014 on the file of the learned Judicial Magistrate, Fast Track Court No.II at Magistrate Level, Coimbatore, failing which, the suspension of substantive sentence of imprisonment alone granted today, shall stand automatically vacated, without any further reference to this Court and the petitioner is further directed to appear before the trial Court and execute a 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 Judicial Magistrate, Fast Track Court No.II at Magistrate Level, Coimbatore and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m. pending revision.

8.The criminal miscellaneous petition is ordered accordingly.

24.07.2024

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