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Crl.M.P.Nos.17679 , 18408 & 18410 of 2024
in
Crl.R.C.No.2270 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2024
Coram

The Honourable **Mr.Justice Sunder Mohan**

Crl .M.P.No.17679, 18408 & 18410 of 2024
in
Crl.R.C.2270 of 2024

S.Jeeva

...Petitioner in all C.M.Ps.

Vs.

S.Prasath

...Respondent

For Petitioner in all C.M.Ps. : Mr.K.A.Mariappan

Order

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence ordered in C.C.No.446 of 2021 by the learned Judicial Magistrate, Additional Mahila Court, Namakkal, (Trial Court) dated 16.06.2023 and confirmed by the learned Sessions Judge, Special Court for Trial of Cases registered under SC/ST/(POA) Act, Namakkal, (Lower Appellate Court), vide judgment dated 07.10.2024 in Crl.A.No.111 of 2023 of 2024 pending disposal of the Criminal Revision Case.

2. It is the case of the respondent/complainant that the petitioner had



Crl.M.P.Nos.17679 , 18408 & 18410 of 2024
in
Crl.R.C.No.2270 of 2024

borrowed a sum of Rs.15,00,000/- and towards the discharge of his liability issued a cheque for the said sum and when the said cheque was presented for encashment, the same was returned with the endorsement 'insufficient funds' and inspite of statutory notice, the petitioner did not pay the cheque amount. Therefore, a complaint came to be lodged against the petitioner.

3. The petitioner was convicted by the trial Court for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo one year simple imprisonment with fine of cheque amount, in default to undergo simple imprisonment for three months simple imprisonment. On appeal, the said conviction and sentence was confirmed by the lower Appellate Court. Therefore, challenging the concurrent finding of the courts below, the petitioner has preferred the present revision and pending revision, he seek for suspension of sentence.

4. The learned counsel for the petitioner would submit that the cheque was not issued towards discharge of legally enforceable debt and that the



Crl.M.P.Nos.17679 , 18408 & 18410 of 2024
in
Crl.R.C.No.2270 of 2024

cheque was given only for security purpose during business transaction, however, the same was misused by the respondent/complainant and that there are several arguable points, which requires consideration. The learned counsel further submitted that the petitioner, to show his bona fides is ready and willing to deposit a sum of Rs.5,00,000/- and hence, prayed for suspension of sentence.

5. This Court finds that the submission made by the learned counsel for the petitioner needs deliberation. Since there are arguable points in the above revision and the question as to whether the cheque was issued in discharge of legally enforceable debt or not has to be decided in the revision, this Court is inclined to suspend the sentence imposed on the petitioner/accused. Further, the petitioner is now willing to deposit a sum of Rs.5,00,000/- to the credit of C.C.No.446 of 2021.

6. Accordingly, this Criminal Miscellaneous Petitions Nos.17679 and 18408 are allowed and till the disposal of the Criminal Revision case, the sentence imposed upon the petitioner/accused by the trial Court, is



Crl.M.P.Nos.17679 , 18408 & 18410 of 2024
in
Crl.R.C.No.2270 of 2024

suspended and the petitioner is exempted from surrender before the court concerned on the following conditions:

(i) The petitioner/accused is directed to deposit a sum of Rs.5,00,000/-[Rupees Fifteen Lakhs Only], within a period of six weeks from the date of receipt of a copy of this order;

(ii) On such deposit being made, the trial Court shall redeposit the said amount in a Fixed Deposit Account, in any one of the Nationalized Banks, renewable thereafter periodically. The disbursal of this amount shall be decided at the culmination of the Criminal Revision Case;

(iii) Thereafter, the sentence of imprisonment alone imposed on the petitioner/accused shall be suspended, on his executing a bond a bond for a sum of Rs.10,000/- with two sureties each for a likesum to the satisfaction of the Judicial Magistrate, Additional Mahila Court, Namakkkal.

(iv) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity;

(v) The petitioner shall appear before the trial Court on



Crl.M.P.Nos.17679 , 18408 & 18410 of 2024
in
Crl.R.C.No.2270 of 2024

the first working day of every month at 10.30 a.m. until the disposal of the revision and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court; and

(vi) On the failure of the petitioner/accused, depositing the said amount, it is open to the trial Court to commit the petitioner/accused into custody for undergoing the sentence.

7. So far as Crl.M.P.No.18410 of 2024 is concerned, the same is dismissed as withdrawn in view of the endorsement made by the learned counsel for the petitioner towards withdrawal of the said Miscellaneous Petition.

21.12.2024

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Issue order copy by 24.12.2024

Upload the order copy forthwith.

To

1. The Judicial Magistrate,
Additional Mahila Court, Namakkkal.
2. The Sessions Judge,
Special Court for Trial of Cases registered

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Crl.M.P.Nos.17679 , 18408 & 18410 of 2024
in
Crl.R.C.No.2270 of 2024

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under SC/ST/(POA) Act, Namakkal,

Sunder Mohan ,J.,

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in
Crl.R.C.No.2270 of 2024

Crl .M.P.No.17679, 18408 & 18410 of 2024
in
Crl.R.C.2270of 2024

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