



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2024

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.M.P.Nos.18966 and 19463 of 2023

in

Crl.RC.No.2063 of 2023

Suresh

... Petitioner

-Vs-

The State,
Represented by Inspector of Police,
E-3, Teynampet Police Station,
Chennai City.
Crime No.205 of 2016

... Respondent

PRAYER in Crl.M.P.No.18966 of 2023: Criminal Miscellaneous Petition filed under Section 397(1) of the Criminal Procedure Code, to suspend the sentence imposed on the petitioner dated 03.07.2023 made in C.A.No.126 of 2019 by the learned XX Additional District and Sessions Judge, City Civil Court, Chennai, confirming the conviction imposed in the judgment dated 07.03.2019 made in C.C.No.241 of 2017 on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai - 15 pending disposal of the above criminal revision and enlarge the petitioner on bail.



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PRAYER in CrI.M.P.No.19463 of 2023: Criminal Miscellaneous Petition filed under Section 482 of the Criminal Procedure Code, to issue a direction to exempt the petitioner from surrendering in C.A.No.126 of 2019 on the file of the learned XX Additional District and Sessions Judge, City Civil Court, Chennai dated 03.07.2023, confirming the order passed in C.C.No.241 of 2017 on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai - 15 dated 07.03.2019 pending disposal of the above criminal revision and enlarge the petitioner on bail.

For petitioner : Mr.C.A.Ramanan
in both M.Ps

For Respondent : Mr.A.Gopinath
in both M.Ps Government Advocate (CrI.Side)

COMMON ORDER

CrI.M.P.No.18966 of 2023 has been filed to suspend the sentence imposed on the petitioner / appellant in CrI.A.No.126 of 2019 on the file of the XX Additional District and Sessions Judge, City Civil Court, Chennai dated 03.07.2023, confirming the order passed in C.C.No.241 of 2017 by the learned XVIII Metropolitan Magistrate, Saidapet, Chennai dated 07.03.2019 pending disposal of the above criminal revision petition and enlarge the petitioner on bail.



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2. CrI.M.P.No.19463 of 2023 has been filed to exempt the petitioner from surrendering in CrI.A.No.126 of 2019 on the file of the XX Additional District and Sessions Judge, City Civil Court, Chennai dated 03.07.2023, confirming the order passed in C.C.No.241 of 2017 by the learned XVIII Metropolitan Magistrate, Saidapet, Chennai dated 07.03.2019 pending disposal of the above criminal revision petition and enlarge the petitioner on bail.

3. The revision petitioner was convicted for the offence under Section 408 of IPC and sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.5,000/-, in default, to undergo simple imprisonment for three months, vide judgment dated 07.03.2019 made in C.C.No.241 of 2017, against which appeal was filed in C.A.No.126 of 2019 before the learned XX Additional District and Sessions Judge, City Civil Court, Chennai and the same was dismissed vide judgment dated 03.07.2023. Aggrieved by the same, the revision has been filed along with the present petitions.



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4. The learned counsel for the petitioner would submit that 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 petitions for suspension of sentence and exempting the petitioner from surrendering before the Court below are filed and the petitioner is not in jail.

5. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner has misappropriated a sum of Rs.24,00,000/-, however the trial Court ordered only a sum of Rs.5,000/- towards compensation.

6. 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 revision petitioner is entitled for the relief of suspension of sentence.

7. Accordingly, the substantive sentence of imprisonment alone is suspended on the following conditions:



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a) The petitioner is directed to deposit a sum of Rs.2,00,000/- (Rupees Two Lakhs only) to the credit of C.C.No.241 of 2017 on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai - 15, 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/- to the satisfaction of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai - 15, along with two sureties for a like sum;

c) the Petitioner shall report before the Court below on the first working day of every month at 10.30 AM, until further orders.

8. Crl.M.P.No.18966 of 2023 is ordered accordingly. However, this Court is not inclined to exempt the petitioner from surrendering before the Court below. Hence, Crl.M.P.No.19463 of 2023 is dismissed.

18.07.2024
(2/2)

vji



Note: Issue order copy on 22.07.2024

To

1. The learned XVIII Metropolitan Magistrate,
Saidapet,
Chennai - 15,
2. The learned XX Additional District and Sessions Judge,
City Civil Court,
Chennai.
3. The Inspector of Police,
E-3, Teynampet Police Station,
Chennai City.
4. The Public Prosecutor,
High Court of Madras,
Madras.



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M.DHANDAPANI, J.

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(2/2)**