



WEB COPY



Crl.M.P.Nos.19078 and 19079 of 2023 In Crl.R.C.No.2087 of 2023

Crl.M.P.Nos.19078 and 19079 of 2023
In
Crl.R.C.No.2087 of 2023

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.2,50,000/- as compensation to the complainant within one month in default to undergo one month S.I. by the learned Judicial Magistrate, Fast Track Court, Tiruppur under judgment dated 19.12.2022 in S.T.C.No.460 of 2019. The conviction and sentence imposed by the trial Court was confirmed by the learned I Additional District and Sessions Judge, Tiruppur, under judgment in C.A.No.57 of 2023 dated 20.10.2023. 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. It is contended that there are contradictions in the material particulars between the evidence of the prosecution witnesses. It is further



Crl.M.P.Nos.19078 and 19079 of 2023 In Crl.R.C.No.2087 of 2023

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) 1190790)** and that of the **IBRAHIM VS STATE OF KERALA (1979 KLT 857)** are relied upon in this regard.

3.Heard the submissions made by the learned counsel for the respondent.

4.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.

5.Therefore, in view of the fact that there are several infirmities in the prosecution case and there are arguable points involved in the



Crl.M.P.Nos.19078 and 19079 of 2023 In Crl.R.C.No.2087 of 2023

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.

6.Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to deposit 50% of the cheque amount i.e., a sum of Rs.1,25,000/- (Rupees One Lakh and Twenty Five Thousand Only) within a period of two weeks from the date of receipt of a copy of this order to the credit of S.T.C.No.460 of 2019 on the file of the learned Judicial Magistrate, Fast Track Court, Tiruppur, 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 Fast Track Court, Tiruppur and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.30a.m.



Crl.M.P.Nos.19078 and 19079 of 2023 In Crl.R.C.No.2087 of 2023

pending revision.

M.DHANDAPANI, J.
pri

7.The criminal miscellaneous petition in Crl.M.P.No.19078 of 2023 is ordered accordingly.

8.In view of the order passed in Crl.M.P.No.19078 of 2023, the petition for exemption to surrender in Crl.M.P.No.19079 of 2023 is dismissed.

01.08.2024

pri

Crl.M.P.Nos.19078 and 19079 of 2023
In
Crl.R.C.No.2087 of 2023