



Crl.M.P.No.18401 & 18402 of 2024
in
Crl.R.C.No.2386 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2024

Coram

The Honourable Mr.Justice Sunder Mohan

Crl .M.P.Nos.18401 & 18402 of 2024
in
Crl.R.C.2386 of 2024

Haridoss Udaiyar

...Petitioner in both C.M.Ps.

Vs.

Prabudoss

...Respondent in both C.M.Ps.

For Petitioner in both M.Ps. : Mr.M.Muruganantham
and Associates

Order

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence imposed on the petitioner/accused by judgment dated 10.04.2024 passed in C.C.No.190 of 2019 by the learned Judicial Magistrate No.II, Uludurpet (Trial Court) and confirmed by the learned Principal Sessions Judge, Kallakurichi (Lower Appellate Court), vide judgment dated



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15.10.2024 in Crl.A.No.46 of 2024 pending disposal of the Criminal Revision Case.

2. It is the case of the respondent/complainant that the petitioner had issued a cheque for a value of Rs.6,00,000 towards the discharge of his liability 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, which the complainant is entitled to get as compensation under Section 357 (3) of Cr.P.C., in default to undergo simple imprisonment for two 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



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pending revision, he seek for suspension of sentence.

4. The learned counsel for the petitioner would submit that the complaint filed under Section 138 of the N.I.Act is barred by limitation and further, the judgment of the Trial Court would indicate that no opportunity was given to the petitioner to put forth his defence and that the cheque was misused by the respondent/complainant as the same was given for security purpose and that there are several arguable points, which requires consideration. The learned counsel further submitted that the petitioner already deposited 20% of the cheque amount and now to show his bonafides, he is willing to deposit a further sum of Rs.1,00,000/- 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



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petitioner/accused. Further, the petitioner has already deposited 20% of the cheque amount and is now willing to deposit a sum of Rs.1,00,000/- to the credit of C.C.No.190/2019.

6. Accordingly, this Criminal Miscellaneous Petition is allowed and till the disposal of the Criminal Revision case, the sentence imposed upon the petitioner/accused by the trial Court, is 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.1,00,000/-[Rupees One Lakh 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



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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 No.II, Ulundurpet.

(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 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.



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Issue order copy by 24.12.2024

Upload the order copy forthwith.

To

1. The Principal Sessions Judge, Kallakurihch.
2. The Judicial Magistrate No.II, Ulundurpet.

Sunder Mohan ,J.,

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