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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 29.10.2024
PRONOUNCED ON : 31.01.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.M.P.No.4360 of 2024 in
Crl.R.C.No.455 of 2024

1.Ms.Devadass Reddy Property Developers and Builders (PP Ltd.,
represented by its Managing Director of R.Devadass Reddy,
Old No.185, New No.435, T.H.Road,
Kaladipet, Chennai – 600019.

2.Mr.Devadass Reddy

... Petitioners / Petitioner

Vs.

M/s.EMGEE Infrastructure Holdings (India) Pvt. Ltd.,
Represented by Mr.Srinivasa Rao,
6/11, Prahathambal Street,
Nungambakkam,
Chennai-600 034.

... Respondent / Intervener

PRAYER : Criminal Miscellaneous Petition filed under Section 397(1) and 439 of Cr.P.C., to suspend the sentence imposed in by the learned Metropolitan Magistrate, Fast Track Court No.III, Saidapet, Chennai in C.C.No.8607 of 2007 dated 27.05.2019 confirmed by the learned VI Additional Sessions Judge, Chennai in Crl.A.No.321 of 2019 dated 07.02.2024 and enlarge the 2nd petitioner on bail pending disposal of the above said Criminal Revision Petition.



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For Petitioners : Mr.S.N.Thangaraj

For Respondent : Mr.Mohit Kumar

ORDER

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned VI Additional Sessions Judge, Chennai, in CrI.A.No.321 of 2019, dated 07.02.2024, by confirming the judgment of conviction and sentence imposed by the learned Judicial Metropolitan Magistrate, Fast Track Court No.III, Saidapet, Chennai in C.C.No.8607 of 2007, dated 27.05.2019, and enlarge the petitioner/Accused on bail pending disposal of the Criminal Revision.

2. The complaint against the Petitioner/Accused is that the Respondent / Complainant to diversify his business wanted to acquire property near Chennai Port. The 1st Petitioner Company represented by the 2nd petitioner, claiming himself dealing with Real Estate business, approached and offered to the respondent to procure lands to an extent of 750 Acres in Vallur and Edyanchavadi Villages in Ponneri Taluk. An Memorandum of Understanding, dated 30.11.2006, entered into between M/s.Deepti Integrated Logistics Private Ltd., and M/s.Devadass Reddy



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Property Developers and Builders Private Ltd. It was agreed that 750 Acres of land in the said Villages will be developed as per MoU. Thereafter, as per MoU Rs.5,50,00,000/- was given to the petitioners and the petitioners to fulfil the terms and conditions of MoU. Since the petitioner was unable to comply MoU, the MoU was terminated by Settlement Deed/Ex.P3, dated 05.07.2023. In that, the petitioner agreed to return back the amount of Rs.5,50,00,000/-, by way of 3 cheques drawn on Bank of India, Chennai Branch, for Rs.1,00,00,000/-, Rs.1,50,00,000/- and Rs.3,00,00,000/-. The amount to be returned between 15.07.2007 to 15.10.2007. The 2nd Cheque for Rs.3,00,00,000/- bearing No.000129, dated 15.09.2007 when presented, it was dishonoured, therefore, statutory notice issued to the petitioner. The petitioner sent a reply which was not acceptable, rejoinder was sent and thereafter, the case has been filed.

3. Before the trial Court, the 2nd petitioner examined himself as P.W.1 and marked Exs.P1 to P.13. On the side of the defence, D.W.1 and D.W.2 examined and Exs.D1 to D20 marked.

4. The learned trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments of both sides, has passed the



judgment dated 27.05.2019, convicted the petitioner in a private complaint filed under Section 138 of Negotiable Instruments Act and sentenced him to undergo simple imprisonment for a period of six months and directed to pay the double the cheque amount, as compensation. Challenging the above said conviction and sentence, the petitioner preferred CrI.A.No.321 of 2019 before the VI Additional Sessions Court, Chennai. The learned Sessions Judge, vide judgment dated 07.02.2024, dismissed the appeal, and thereby, confirmed the conviction and sentence imposed by the trial Court. Challenging the said conviction and sentence, the petitioner have preferred the present Criminal Revision along with the above Miscellaneous Petition seeking suspension of sentence.

5. I have heard the learned counsel appearing on either side and perused the materials available on record.

6. This Court, today, while admitting the Criminal Revision Case, has passed an elaborate order, after considering the rival contentions putforth by either side.



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7. The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this Criminal Revision and further the Criminal Revision is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of suspension of sentence.

8. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended till the disposal of the Criminal Revision on the following conditions:-

(i) The petitioner/Accused is directed to be enlarged on bail on condition that he shall 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 Metropolitan Magistrate, Fast Track Court No.III, Saidapet, Chennai.



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(ii) 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 to ensure their identity; and

(iii) The petitioner/Accused shall appear before the trial Court once in a month i.e., on the first working day of every English calendar month at 10.30 a.m., until further orders.

31.01.2025

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
vv2/mpk

To

- 1.The VI Additional Sessions Judge,
Chennai.
- 2.The III Metropolitan Magistrate, Fast
Track Court No.III, Saidapet, Chennai.
- 3.The Public Prosecutor,
High Court, Chennai.



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M.NIRMAL KUMAR, J.

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Pre-Delivery Order made in
Crl.M.P.No.4360 of 2024 in
Crl.R.C.No.455 of 2024

31.01.2025