

IN THE COURT OF SESSIONS AT CHENNAI

Present: Thiru. D. Lingeswaran, M.A., B.L.,
I Additional Sessions Judge
I/C. of Principal Sessions Court
Wednesday, the 9th day of August, 2023

Crl.M.P.No.1/2023

in

C.A.No.458/2023

in

C.C.No.2165/2018

(on the file of the learned Metropolitan Magistrate, FTC-III, Saidapet, Chennai)
D. Prasad Petitioner/Appellant/Accused

Vs.

K. Gopalakrishnan Respondent/Respondent/Complainant.

This petition is coming on this day before me for hearing in the presence of M/s. B. Kannan, P. Jeganathan, K. Sarath Kumar, Counsel the petitioner and upon hearing the counsel for the petitioner, this Court delivered the following,

ORDER

1. The petitioner seeks suspension of sentence pending disposal of the appeal.

2. The Petitioner/Appellant herein the accused in C.C.No.2165/2018 on the file of the learned Metropolitan Magistrate, FTC-III, Saidapet, Chennai. On 30.6.2023, judgment was pronounced in the above case and the petitioner was found guilty u/s.138 of N.I. Act and the petitioner/Accused was sentenced to undergo six months simple imprisonment and he was directed to pay the cheque amount as compensation to the complainant i/d. to undergo simple imprisonment for one month.

3. Learned counsel for the petitioner would submit that the petitioner has fair chance of success in the appeal. Hence, prays to suspend the sentence.

4. This court has also perused the memorandum of appeal and the submission made by the petitioners' counsel. On perusal of the records, the judgment was pronounced on 30.6.2023. The trial court suspended the sentence till 28.7.2023. Though the petitioner has filed the petition for suspension of sentence along with the appeal on 27.7.2023, when the appeal was returned for compliance of certain defects, he has represented the appeal only on

8.8.2023 and the appeal was numbered, by then the suspension of sentence ordered by the trial court was lapsed. However, today the appellant had surrendered himself before this court along with a surrender petition and the same was allowed by this court.

5. As per Sec.148 of N.I. Act (Amendment Act), 2018, the Appellate Court may order the Appellant to deposit such sum which shall be a minimum of Twenty percent of the fine or Compensation awarded by the Trial Court. In the above provision, it is clearly stated that the amount shall be deposited within 60 days from the date of the Order. As already stated supra, the petitioner/appellant/accused was ordered to undergo simple imprisonment for a period of six months and in these circumstances, it may not be right to hold that the petitioner has to serve the sentence during the pendency of the appeal.

6. Considering the above facts and the value of the compensation amount, this Court is inclined to suspend the sentence on condition to deposit 20% of the total compensation amount.

7. Accordingly, the sentence of imprisonment imposed on the petitioner by the lower Court alone is hereby suspended till the disposal of the appeal and the petitioner is ordered to be enlarged on bail on her executing a bond for Rs.10,000/- with two sureties each for a likesum to the satisfaction of the learned Metropolitan Magistrate, FTC-III, Saidapet, Chennai. Further the petitioner shall deposit 20% of the compensation amount to the credit of C.C. number on the file of the Trial Court within sixty days from the date of this Order.

8. The appeal has been made over to V Additional City Civil Court, Chennai.

9. The appeal is posted to 4.9.2023.

10. The petitioner is also directed to pay a sum of Rs.1000/- to the District Legal Services Authority, Chennai.

Delivered by me today in open court.

I Additional Sessions Judge
I/c. of Principal Sessions Court

Copy to
Learned Metropolitan Magistrate, FTC-III
Saidapet, Chennai.