

Order on IA No.1/2023 and 2/2023
filed U/Sec.5 of Limitation Act and
U/Sec.389(2) of Cr.PC

The appellant has filed the above two applications one for condonation of delay and the other seeking suspension of sentence. Admittedly the judgment is dtd.03.02.2023 and the above appeal is filed dtd.03.08.2023 and there is delay of 182 days in filing the above appeal.

Heard the counsel for Appellant.

The Accused has been convicted for the offence punishable U/Sec.138 of NI Act and challenging the said Judgment the Appellant has preferred the above appeal belatedly.

The Trial Court has imposed only fine and in default to undergo imprisonment. The Hon'ble High Court of Karnataka in Crl.Petition No. 6033/2014 dt. 09.10.2014 in the case of Sri. M.C. Thippanna V/s N.Vijayakumar, observed that pending disposal of application U/S 5 of Limitation Act, the execution and operation of the Judgment of conviction can be suspended in Appeal.

In the instant case also the Appellant is entitled for the benefit of the said Judgment pending adjudication on the application for condonation of delay.

Therefore the Appellant has made out prima facie case to suspend the sentence passed by the Trial Court. Accordingly, I proceed to pass the following

ORDER

Acting U/S 389(2) of Cr.P.C. the execution and operation of the judgment passed in C.C.No. 51171/2021 dtd.10.04.2023 by the XXXIII Addl.C.M.M., Bengaluru, is hereby suspended for a period of 3 months, subject to appellant depositing 20% of cheque amount before the Trial Court, within 8 weeks from today. In case of default on the part of the Appellant /Accused to deposit the said amount, this order stands cancelled, forthwith.

Further, the Appellant shall execute a personal bond for the sum of Rs.50,000/-, with one surety for the likesum, before the Trial Court, within 4 weeks from today.

Issue notice on the main appeal, on IA Nos.1 and 2/2023 and also on interim order to the Respondent, if PF is paid returnable by 25.09.2023.

[P.G. Chaluva Murthy]

LXXII Addl.City Civil & Sessions Judge,
(CCH-73) Bengaluru.