

Order is pronounced.

ORDER

The appellant has filed this appeal u/sec. 374 of the Code of Criminal Procedure, by questioning the judgement of conviction and order of sentence dated 19.05.2023, passed by the Court of the Civil Judge & J.M.F.C, Hukkeri in C.C. No. 760/2018, wherein the appellant has been convicted and sentenced for the offence punishable u/sec.138 of the Negotiable Instruments Act.

2. In this present appeal, the appellant has also filed an application u/sec. 389(1) of the Code of Criminal Procedure, praying to suspend the execution of the sentence passed

in C.C.No.760/2018 till disposal of this appeal on the main ground that the impugned judgment is erroneous and it is liable to be set aside.

3. I have heard the learned counsel for the appellant and perused the case records.

4. A perusal of the case records brings to light that the trial court has passed the impugned judgment of conviction and sentence by convicting and sentencing the appellant for the offence punishable u/sec. 138 of the N.I. Act, holding that the respondent has proved the offence beyond reasonable doubt. It is advisable to mention that the questions whether the respondent has paid the disputed cheque amount to the appellant or not and whether the respondent has proved his case or not have to be judged based on the evidence after verifying the trial Court records. The learned counsel for the appellant submitted that the appellant has got sufficient evidence to prove the defence and to falsify the case of the respondent.

5. Therefore, I feel it just and proper to suspend the execution of the sentence imposed by the trial Court till disposal of this appeal, subject to the condition that the appellant shall deposit 20% of the fine amount within a period of one month from the date of this order. Failing which, this order of suspending the execution of sentence will automatically stand vacated. Therefore, I proceed to pass the following:

ORDER

i) The execution of the sentence imposed by the Court of the Civil Judge & JMFC, Hukkeri in C.C. No. 760/2018 stands hereby SUSPENDED till disposal of this appeal, subject to the condition that the appellant shall deposit 20% of the fine amount in the trial court within a period of one month from the date of this order. Failing which, this order of suspension of sentence will automatically stand vacated.

ii) The compliance of this order shall be reported to this court by the appellant on next date of hearing.

iii) The office is directed to communicate this order to the trial Court forthwith.

iv) Issue notice to the respondent by RPAD, if requisite postage is furnished. Call on 24.07.2023.

(Dictated to the Stenographer directly over the computer and typed by him and corrected, signed and then pronounced by me in the Open Court on this the 21st day of June 2023).

**(S. L. CHAVHAN)
VII Addl. District & Sessions Judge,
Belagavi, Sitting at Chikkodi.**