



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Fourteenth day of March Two Thousand Sixteen
PRESENT

The Hon`ble Mr Justice V.S.RAVI

CRL MP(MD) No.2224 & 2225 of 2016

IN

CRL RC(MD) No.148 of 2016

R. ANANTHAN

... PETITIONER/APPELLANT/SOLE ACCUSED
IN BOTH THE PETITIONS
Vs

ARUNACHALAM CHETTIYAR

... RESPONDENT/RESPONDENT/COMPLAINANT
IN BOTH THE PETITIONS

Prayer in CRL MP(MD). 2224/ 2016 IN CRL RC(MD) No.148 of 2016 :

Petition filed under section 389(1) of Cr.P.C., praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed on the petitioner in C.A.No. 43 of 2012 dated 07.01.2016 on the file of the Learned Mahila Court, Sivagangai by confirming the sentence passed by the Learned Judicial Magistrate cum Fast Track Court, Karaikudi in C.C.No. 102 of 2012 dated 02.11.2012 and enlarge the petitioner on bail pending disposal of the revision petition

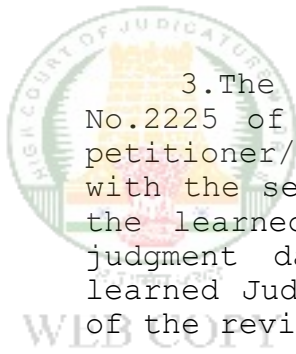
Prayer in CRL MP(MD). 2225/ 2016 IN CRL RC(MD) No.148 of 2016 :

Petition filed under section 482 of Cr.P.C., praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to exempt the petitioner from surrender in C.A.No. 43 of 2012 dated 07.01.2016 on the file of the Learned Mahila Court, Sivagangai by confirming the sentence passed by the Learned Judicial Magistrate cum Fast Track Court, Karaikudi in C.C.No. 102 of 2012 dated 02.11.2012

Order : These petitions coming on for admission upon perusing the petitions filed in support thereof and upon hearing the arguments of M/S.MR.G.KARUPPASAMY PANDIAN, Advocate for the petitioner in both the petitions while admitting the CRL.RC., the court made the following order:-

Crl.M.P.(MD) No.2224 of 2016 is filed by the petitioner/revision petitioner/sole accused to suspend the sentence imposed on him in C.A.No.43 of 2012 dated 07.01.2016 by the learned Mahila Fast Track Court Judge, Sivagangai, confirming the judgment dated 02.11.2012 made in C.C.No.102 of 2012 passed by the learned Judicial Magistrate, Fast Track Court, Karaikudi, pending disposal of the revision.

2.It is specifically stated on behalf of the petitioner that during the trial and also during the pendency of appeal, the petitioner/revision petitioner/accused has got the benefit of bail and also the petitioner/revision petitioner/accused has appeared before the Court concerned without any fail. It is further submitted in the affidavit that the petitioner/revision petitioner/Accused has the fair chance of success in the revision and there is the prima facie case in his favour and due to his family circumstances and his livelihood, he is not in a position to surrender before the Court below.



3.The petitioner has filed another application in CrI.M.P.(MD) No.2225 of 2016 to pass an order for exempting the petitioner/revision petitioner/Accused from surrendering before the lower Court in connection with the sentence imposed on him in C.A.No.43 of 2012 dated 07.01.2016 by the learned Mahila Fast Track Court Judge, Sivagangai, confirming the judgment dated 02.11.2012 made in C.C.No.102 of 2012 passed by the learned Judicial Magistrate Fast Track Court, Karaikudi, pending disposal of the revision.

4.It is clearly stated in the affidavit enclosed with the petition that a private complaint has been filed as against the petitioner for an offence under Section 138 of Negotiable Instrument and after the conclusion of the trial, sentence has been imposed to the effect that the petitioner to undergo one year R.I. and to pay a compensation of doubled the cheque amount under Section 357 of Cr.P.C. and in C.A.No.43 of 2012, the same has been confirmed. However, the learned counsel, for the petitioner has reported that the trial Court as well as the appellate Court has not considered the judgment of this Court reported in 2008(2) MWN (Cri.) (DCC) 87 - C.K.Mahalingam Vs. Palanichamy.

5.It is pointed out in the ground of revision that the reasons given by the trial Court and the appellate Court are not sound and the judgment passed by the Courts below are not sustainable in law and also on facts. However, the petitioner himself has admitted that the cheque, in dispute, has been issued on 01.08.2006 for an amount of Rs.35,000/-

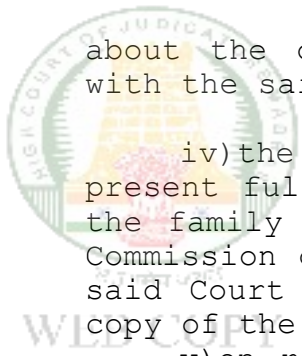
6.On a Perusal of the materials available on records, it is found that there are certain force in the points raised in the grounds of revision. It is also stated that there is prima facie case in favour of the petitioner. From the submissions made on behalf of the petitioner, this Court finds that there are substantial and arguable points in the present case. Further, it is also seen that if certain stringent conditions are imposed, there is no chance for the accused to abscond. Further, after hearing the main revision alone, the correct and proper finding in the main case can be given.

7.Further, it is seen that various points raised in the grounds of revision require an indepth/threadbare examination at the time of final hearing of the main revision and also on going through the various grounds raised in the grounds of revision at this stage, this Court, to prevent aberration of justice, suspends the sentence pending disposal of the criminal revision with the following conditions:

i)the petitioner/revision petitioner/Accused is directed to deposit a sum of Rs.35,000/- (Rupees thirty five thousand only) before the learned Judicial Magistrate Fast Track Court, Karaikudi to the credit in C.C.No.102 of 2012.

ii)On such deposit, the trial Court is directed to keep the said deposit in the Court deposit until further order and the petitioner/revision petitioner/Accused shall be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate, Fast Track Court, Karaikudi;

<https://hcservices.court.gov.in/hcservices/t> the petitioner/revision petitioner/Accused shall appear before the said Court once in a month viz., first working day of every month until further orders, failing which the said Court is directed to inform



about the details of failure committed by the petitioner in complying with the said conditions, to the Registry of this Court, forthwith.

iv) the petitioner/revision petitioner/Accused shall furnish his present full details of his residential address along with the copies of the family ration card/Aadhar Card/voter ID card issued by the Election Commission of India and also phone numbers (mobile/landline) if any to the said Court in the form of an affidavit, after serving an advance true copy of the same to the respondent; and

v) on receipt of the true copy of the said affidavit, the respondent is directed to verify the veracity of the particulars given in the said affidavit and also liberty is granted to respondent to take appropriate follow up action, in accordance with law.

8. For the above mentioned facts and circumstances, CrI.M.P.(MD) No.2225 of 2016 is allowed and the petitioner/revision petitioner/Accused is exempted from surrendering before the lower Court in connection with the sentence imposed on him in C.A.No.43 of 2012 dated 07.01.2016 by the learned Mahila Fast Track Court Judge, Sivagangai, confirming the judgment dated 02.11.2012 made in C.C.No.102 of 2012 passed by the learned Judicial Magistrate, Fast Track Court, Karaikudi, pending disposal of the revision.

sd/-
14/03/2016

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE JUDGE, MAHILA COURT, SIVAGANGAI
- 2 THE JUDICIAL MAGISTRATE, FAST TRACK COURT, KARAIKUDI
- 3 -do-thro THE CHIEF JUDICIAL MAGISTRATE, SIVAGANGAI DISTRICT

+1. C.C. to M/S AK.AZAGARSAMI Advocate SR.No.14272

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ORDER
IN
CRL MP(MD) No.2224 & 2225 of 2016
IN
CRL RC(MD) No.148 of 2016
Date :14/03/2016