



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

Wednesday, the Twentieth day of December Two Thousand Seventeen

WEB COPY

PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL MP(MD) No.11519 of 2017

IN

CRL RC(MD) No.941 of 2017

M.S.BAPUSAN

... PETITIONER/ PETITIONER

Vs

NELSON

... RESPONDENT/ RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the Sentence imposed by the Learned Mahila Fast Track Court/Sessions Judge, Nagercoil dated 26.05.2017 in C.A.No.89 of 2008 confirming the Judgment passed by the Learned Principal District Munsif/Judicial Magistrate, Eraniel in C.C.No.55 of 2003 dated 16.06.2008 and enlarge the petitioner on bail pending disposal of the main revision and thus render justice.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.N.DILIP KUMAR, Advocate for the petitioner and Respondent not appeared either in person or by an advocate, While admitting the CRL.RC., the court made the following order:-

The petitioner / accused in C.C.No.55 of 2003 on the file of the learned Principal District Munsif / Judicial Magistrate, Eraniel, while challenging his conviction and sentence dated 16.06.2008 seeks revision bail under Section 397(1) Cr.P.C.

2. After trial, he has been convicted and sentenced as under:

Conviction	Sentence
Section 138 N.I.Act	6 months S.I. + Fine of Rs.3,000/- i/d one month S.I.

3.Fine amount has been paid by the petitioner herein. Against the order of conviction, the petitioner preferred an appeal in C.A.No.89 of 2008 before the learned Sessions Judge / Mahila Fast Track Court, Nagercoil and the same was dismissed by confirming the order of the Trial Corut. Aggrieved by that order of dismissal passed by the Appellate Court, the present Criminal Revision is preferred before this Court by the petitioner herein.



4. The learned counsel for the petitioner submitted that there are very many legal infirmities in the conviction recorded by the Trial Court and they are required to be revised. He further submitted there is no privity of contract between the petitioner and the respondent and the disputed cheque was also issued in the name of the Secretary of Y-49 Keezmidalam primary Agricultural Co-operative Bank Ltd., Midalakkadu, Palapallam Post, Keezhmidalam Village, Vilavancode Taluk, Kanyakumari District. The petitioner has purchased gunny bags from the concerned Agricultural Society and paid Rs.25,000/- and for balance amount, he has given cheques as security to the Secretary / respondent. The respondent has paid the amount on his own and for his personal gain, he has misused the cheque, which was issued in favour of the Society. The respondent filed a complaint under N.I. Act in his personal capacity and not as the Secretary of the concerned Society. He further submitted that the petitioner is having arguable points in this revision and he is having a prima facie case in his favour.

4. In the facts and circumstances, perusing the impugned Judgment and the materials on record, I am of the view that certain eminently arguable points are involved in this criminal revision. They are required to be examined in detail in the main criminal revision. Further, it will take some time for the disposal of the criminal revision. On considerations, this petition is ordered as under:

- (i) Revision bail is granted.
- (ii) Substantial sentence alone is suspended on condition that the petitioner shall execute a bond for Rs.10,000/- (Rupees ten thousand only) with two sureties for the likesum each to the satisfaction of the learned Judicial Magistrate, Eraniel.
- (iii) The petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m., until further orders.

sd/-
20/12/2017

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



TO

1. THE MAHILA FAST TRACK COURT/SESSIONS JUDGE,
NAGERCOIL.
2. THE PRINCIPAL DISTRICT MUNSIF/JUDICIAL MAGISTRATE,
ERANIEL
3. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

+1. C.C. to M/S.N.DILIP KUMAR Advocate SR.No.36603

ORDER

IN

CRL MP (MD) No.11519 of 2017

IN

CRL RC (MD) No.941 of 2017

Date :20/12/2017

MS/VR/SAR.4/20.12.2017/3P.5C