



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

Thursday, the Thirteenth day of April Two Thousand Seventeen

PRESENT

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

CRL MP(MD) No.1774 and 1775 of 2017

IN

CRL RC(MD) No.199 and 200 of 2017

THANGAM

... PETITIONER/ PETITIONER  
IN BOTH THE PETITIONS

Vs

THIRUPATHI

... RESPONDENTRESPONDENT  
IN BOTH THE PETITIONS

**Prayer in CRL MP(MD) . 1774/ 2017 IN CRL RC(MD) No.199:**

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to enlarge the Petitioner on bail by suspending the sentence imposed by the Principal District and Sessions Judge, Theni in C.A.No.20 of 2015 by Judgment dated 15.12.2016, pending the disposal of the main Criminal Revision on the file of this Honourable Court and thus render justice.

**Prayer in CRL MP(MD) . 1775/ 2017 IN CRL RC(MD) No.200:**

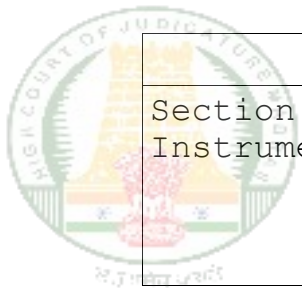
To enlarge the Petitioner on bail by suspending the sentence imposed by the Principal District and Sessions Judge, Theni in C.A.No.19 of 2015 by Judgment dated 15.12.2016, pending the disposal of the main Criminal Revision on the file of this Honourable Court and thus render justice.

Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of M/S.S.RAMASAMY, Advocate for the petitioner in both the petitions and of M/S.H.ARUMUGAM, Advocate on behalf of the Respondents in both the petitions the court made the following order:-

The petitioner challenges the legality and propriety of the conviction and sentence recorded by the Trial Court as well as by the Appellate Court.

2. The revision petitioner is an accused in S.T.C.Nos.31 and 30 of 2014 respectively, on the file of the learned Judicial Magistrate, Fast Track Court, (M.L), Theni.

3. In the trial Court, the petitioner has been acquitted and on appeal in C.A.No.19 of 2015, on the file of the learned Principal District and Sessions Judge, Theni, the petitioner has been convicted and sentenced by reversing the Judgment of the trial Court, as follows:-



| Conviction                                 | Sentence                                                                                         |
|--------------------------------------------|--------------------------------------------------------------------------------------------------|
| Section 138 of Negotiable Instruments Act. | In Each case<br>Rs.1,50,000/- as<br>compensation, in<br>default, 3 Months S.I.,<br>in each case. |

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4. The learned counsel appearing for the petitioner has submitted that the appellate Court taken the presumption in respect of cheque, only on the basis of the signature found in the disputed cheque and there is no proof for the complainant to show that the accused has borrowed a sum of Rs.1,50,000/- and the presumption under Sections 118(a) and 139 of Negotiable Instruments Act, cannot be taken, as against the appellant / accused, since there is no legality enforceable debt on the part of the appellant / accused apart from the respondent / complainant not proved with regard to borrowing of Rs.1,50,000/-. It is further stated that except the signature, the particulars written in the cheque are found in different ink and the disputed cheque was given to the complainant by the husband of the petitioner, as security.

5. The learned counsel appearing for the respondent states that the appellate Court has perused the entire records and has correctly convicted the accused directing him to pay the compensation and the petitioner is not having any prima facie case in this Revision.

6. I have anxiously considered the rival submissions, perused the averments in the bail petition, impugned Judgment and the relevant evidence on record.

7. Perusing the impugned judgments and the materials on record, I am of the view that certain eminently arguable points are involved in the criminal revisions. They are required to be examined in detail in the main criminal revisions. It will take some time for the disposal of the criminal revisions. I see prima facie case. I am inclined to grant revision bail to the petitioner.

8. In view of the foregoing, ordered as under:

(i) Revision bail granted.

(ii) The petitioner is directed to deposit a sum of Rs.75,000/- each case, towards out of the compensation amount before the trial Court, without prejudice his contentions raised in the Revision.

(iii) There shall be two sureties, and petitioner shall execute a bond for Rs.15,000/- (Rupees fifteen thousand only) to the satisfaction of the Judicial Magistrate, Fast Track Court (M.L.), Theni.



(iv) The petitioner shall appear before the said Court on the first working day of every English Calender month at 10.30 a.m., until further orders.

sd/-  
13/04/2017

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

TO

- 1.THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, THENI.
- 2.THE JUDICIAL MAGISTRATE, FAST TRACK COURT (M.L.), THENI.
- 3.DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE, THENI.

+2. C.C. to M/S.S.RAMASAMY Advocate SR.Nos.20152,20153  
+1 cc to M/S. H.ARUMUGAM ADVOCATE SR.NO. 20280

ORDER IN  
CRL MP (MD) No.1774 and 1775 of 2017  
IN  
CRL RC (MD) No.199 and 200 of 2017  
Date :13/04/2017

MS/PM.PN/SAR.2/13.04.2017/3P/7C