



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

Monday, the Twenty Fourth day of July Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL MP(MD) No.2439 of 2017

IN

CRL RC(MD) No.270 of 2017

A. RAJA MOHAMMED

... PETITIONER / PETITIONER

Vs

VISALAKSHI ACHI

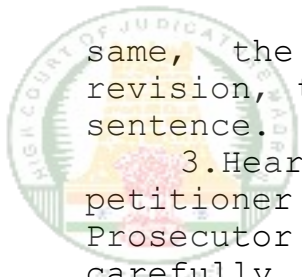
... RESPONDENT / RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence order passed by the Learned Sessions Judge, Sivagangai in C.A.No.31/2014 dated 09/01/2017 in C.C.No.162/2012 passed by the Learned Judicial Magistrate (Fast Track Level), Karaikudi dated 19/06/2014 pending disposal of the above CrI.R.C.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.S.M.SANJAY, Advocate for the petitioner and of Mr.C.MAYILVAHANA RAJENDRAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This petition has been filed praying to suspend the sentence imposed against the petitioner by the learned Sessions Judge, Sivagangai in C.A.No.31 of 2014 dated 09.01.2017 by confirming the order dated 19.06.2014 passed by the learned Judicial Magistrate (Fast Track Level), Karaikudi, in C.C.No.162 of 2012.

2. The petitioner was convicted for an offence under Section 138 of Negotiable Instruments Act and sentenced to undergo simple imprisonment for two months and also to pay a sum of Rs.13,00,000/- (Rupees Thirteen Lakhs only) as compensation in C.C.No.162 of 2012, on the file of the learned Judicial Magistrate (Fast Track Level), Karaikudi, dated 19.06.2014 and challenging the same he filed an appeal in C.A.No.31 of 2014, on the file of the learned Sessions Judge, Sivagangai. The lower Appellate Court also confirmed the conviction and sentence and dismissed the appeal. Challenging the



same, the Criminal Revision Petition has been filed. Pending revision, the present petition has been filed seeking suspension of sentence.

3. Heard Mr.S.M.Sanjay, the learned Counsel appearing for the petitioner and Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor appearing for the respondent and perused the records carefully.

4. The learned counsel for the petitioner would submit that the petitioner is doing the business of purchasing old household materials and there was an agreement between the petitioner and respondent/ defacto complainant, to demolish the old house belonging to the complainant and to remove all the household materials and the petitioner agreed to pay a sum of Rs.33,00,000/- (Rupees Thirty Three Lakhs only), out of which, Rs.20,00,000/- (Rupees Twenty lakhs only) had already been paid and for the remaining Rs.13,00,000/- (Rupees Thirteen Lakhs only), he has given three cheques to the respondent. However, when the cheques were presented for collection, they were returned with an endorsement "stop payment". Thereafter, the petitioner has paid the entire amount as agreed.

5. The learned counsel for the petitioner submitted that without returning the cheques, now the respondent used them for filing the present complaint, without even issuing a demand notice. Earlier the petitioner has preferred a police complaint against the respondent, as she is preventing the petitioner from removing the articles from the house during the trial. He has also examined Investigating Officer and other person to prove the same, the petitioner has discharged the initial burden placed on him but the respondent did not prove the liability.

6. Considering the facts and circumstances of the case and since there are some arguable points involved in the revision, I am inclined to suspend the sentence imposed against the petitioner.

7. In fine, this petition is allowed and the sentence imposed on the petitioner is suspended and the petitioner shall be released on bail on executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) along with two sureties each for a like sum to the satisfaction of Judicial Magistrate (Fast Track Level), Karaikudi, with a further condition that the petitioner shall report before Court on the first working day of every English Calendar month at 10.30 a.m., till the disposal of the revision or until further orders.

sd/-
24/07/2017

/ TRUE COPY /

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



TO

1 THE SESSIONS JUDGE,
SIVAGANGAI

2 THE JUDICIAL MAGISTRATE
(FAST TRACK LEVEL), KARAIKUDI

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+1. C.C. to Mr.S.M.SANJAY Advocate SR.No27173

JAM/09.08.17/CM-MSA/SAR 3/ 3P-4C

ORDER

IN

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Date :24/07/2017