



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

Wednesday, the Twenty Third day of August Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL MP (MD) No.7651 of 2017

IN

CRL RC (MD) No.671 of 2017

S.VIVEKANANDAN

... PETITIONER/PETITIONER

Vs

R.SIVASUBRAMANI

... RESPONDENT/RESPONDENT

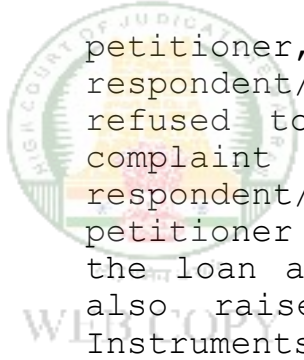
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to enlarge the petitioner on bail by suspending the sentence imposed in C.A.No.1 of 2015 by the Additional District & Sessions Judge, Palani dated 05.07.2017 by modifying the Judgment and conviction made in S.T.C.No.79 of 2013 by the Fast Track Court (Magisterial Level), Palani, dated 12.12.2014.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.T.LENIN KUMAR, Advocate for the petitioner the court made the following order:-

The petitioner/sole accused stood convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 in S.T.C.No.79 of 2013 on the file of the Fast Track Court (Magistrate level), Palani and sentenced to undergo six months simple imprisonment and imposed a fine of Rs.5,000/-, in default to undergo one month simple imprisonment. Against the conviction and sentence passed by the trial court, the petitioner has filed an appeal in C.A.No.1 of 2015 on the file of the Additional District and Sessions Judge, Palani. The lower appellate Court dismissed the appeal and thereby confirmed the conviction and sentence passed by the trial Court. Challenging the same, the present Criminal Criminal Revision Case has been filed. Pending Revision, the petitioner sought for suspension of sentence.

2.Heard Mr.T.Lenin Kumar, learned Counsel appearing for the petitioner and perused the records carefully.

3.The learned counsel appearing for the petitioner submitted that the petitioner/accused has given the cheque in question only as a security for the loan obtained from the respondent/complainant and subsequently he discharged the loan and by misusing the above cheque, the complainant has filed the present complaint. The



petitioner, after receipt of the legal notice issued by the respondent/complainant, sent a reply notice, but the respondent refused to receive the same. The petitioner has also given a complaint before the Palani Town Police Station against the respondent/complainant for misusing the disputed cheque. The petitioner has examined DWs.1 and 2 to prove that he has discharged the loan amount and thereby he raised probable defence and he has also raised presumption under Section 139 of the Negotiable Instruments Act, 1881. On the other hand, the complainant did not prove the legally enforceable debt. The Courts below without considering the above infirmities, convicted the petitioner/accused.

4.Considering the facts and circumstances of the case and also considering that there are arguable points in the case, I am inclined to suspend the sentence of imprisonment alone imposed against the petitioner.

5.In fine, this petition is allowed and the substantive sentence of imprisonment imposed on the petitioner/sole accused alone is suspended and the petitioner shall be released on bail on condition that the petitioner shall execute 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 the Fast Track Court (Magistrate Level), Palani with a further condition that the petitioner shall report before the committal Court on the first working day of every English Calender month at 10.30 a.m., till the disposal of the revision or until further orders.

sd/-

23/08/2017

/ TRUE COPY /

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

TO

- 1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, PALANI.
 - 2 THE JUDGE, FAST TRACK COURT (MAGISTERIAL LEVEL), PALANI.
 - 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, DINDIGUL DISTRICT
- +1. C.C. to M/S.T.LENIN KUMAR Advocate SR.No.29187

mj

CSL/RR-BS/SAR-IV/30.08.2017 : 2P/5C

ORDER

IN

CRL MP(MD) No.7651 of 2017

IN

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Date :23/08/2017