



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.7657 of 2017
IN
CRL RC(MD) No.673 of 2017

SARASWATHI

... PETITIONER/PETITIONER

Vs

P.SELVARAJ

... RESPONDENT/RESPONDENT

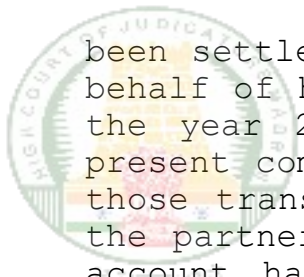
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to enlarge the petitioner by suspending the sentence imposed in C.A.No.54/2012 by the Additional District and Sessions Judge, Palani dated 06/07/2017 confirming the judgement of conviction and sentence made in STC.No.145/2011 by the Fast Track Court (Magisterial Level) Palani dated 21/06/2012 pending disposal of the above Crl.R.C

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.D.VENKATESH, Advocate for the petitioner while admitting the CRL RC., the court made the following order:-

The petitioner/accused stood convicted for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 in S.T.C.No.145 of 2011 on the file of the Fast Track Court (Magistrate level), Palani and sentenced to undergo three months simple imprisonment and directed to pay Rs.5,00,000/- as compensation to the respondent/complainant. Against the conviction and sentence passed by the trial court, the petitioner has filed an appeal in C.A.No.54 of 2012 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.D.Venkatesh, learned Counsel appearing for the petitioner and perused the records carefully.

3.The learned counsel appearing for the petitioner submitted that the respondent/complainant and the son of the petitioner are partners in a finance business and due to some dispute, the above business was dissolved in the year 2009 and the entire account has



been settled and at that time, the petitioner has given a cheque on behalf of her son as security. Thereafter, after two years, ie., in the year 2011, the complainant misused the cheque and filed the present complaint. The respondent/complainant has also admitted all those transactions in his cross examination. Apart from that, when the partnership firm was dissolved in the year 2009 and the entire account has already been settled, there is no necessity for the petitioner to approach the respondent and borrowed a sum of Rs.5,00,000/-. The petitioner has also raised probable defence and absolutely there is no evidence to show that there is legally enforceable liability. 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/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.D.VENKATESH Advocate SR.No.29253

CSL/CM-MSA/SAR-III/28.08.2017 : 2P/5C

ORDER
IN
CRL MP (MD) No.7657 of 2017
IN
CRL RC (MD) No.673 of 2017
Date :23/08/2017