



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

Friday, the Eighth day of December Two Thousand Seventeen

PRESENT

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

CRL MP(MD) No.9996 of 2017
IN
CRL RC(MD) No.807 of 2017

RATHINAM

... PETITIONER/PETITIONER/
APPELLANT/ACCUSED

Vs

BALASUBRAMANIAN

... RESPONDENT/RESPONDENT
RESPONDENT/COMPLAINANT

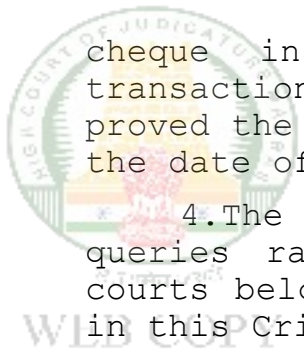
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to pass an order to suspend the sentence as imposed on the petitioner by means of the judgement by the Learned I Additional Sessions Judge, Tirunelveli Division at Tirunelveli made in C.A.No.57/2014 dated 14/02/2017 by confirming the order of conviction and sentence imposed on him by means of a judgement dated 02/06/2014 made in STC.No.1317/2012 by the Learned District Munsif cum Judicial Magistrate, Cheranmahadevi, Tirunelveli District pending disposal of the above Crl.RC

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

The learned counsel for the petitioner and the learned counsel for the respondent are present and heard.

2.The petitioner herein is arrayed as accused in S.T.C.No.1317 of 2012 on the file of the learned District Munsif cum Judicial Magistrate, Cheranmahadevi, Tirunelveli District, convicting the petitioner under Section 138 of Negotiable Instruments Act, to undergo 6 months R.I. and to pay compensation at Rs.3,50,000/- to the respondent herein. Against the judgment of the Trial Court, the petitioner has preferred an appeal in C.A.No.87 of 2014 before the First Additional Sessions Judge, Tirunelveli and the said appeal was dismissed, confirming the judgment of the Trail Court. As against the concurrent judgment passed by the Courts below, the petitioner is before this Court with the present Criminal Revision Case.

3.The learned counsel for the petitioner submitted that there is no enforcement of debt liability on the date of issuance of cheque by the petitioner to the respondent herein and the disputed



cheque in question was given as security for the earlier transaction. It is further contended that the respondent has not proved the fact that he is having sufficient funds to extend loan on the date of issuance of cheque.

4. The learned counsel for the respondent submitted that the queries raised by the petitioner were properly answered by the courts below and the petitioner is not having any prima facie case in this Criminal Revision Case.

5. I have anxiously considered the submissions, perused the averments in the bail petition, impugned Judgment.

6. Perusing the impugned judgments and the materials on record and also considering the fact that it is a concurrent judgment, convicting the petitioner by the courts below and the author of the cheque is also admitted by the petitioner herein, I am of the view that certain eminently arguable points are involved in this criminal revision case. They are required to be examined in detail in the main case. It will take some time for the disposal of this criminal revision. I see prima facie case. I am inclined to grant revision bail to the petitioner.

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

- (i) Revision bail granted.
- (ii) Sentence of imprisonment ordered by the Trial Court as confirmed by the Appellate Court alone is suspended.
- (iii) There shall be two sureties, they and the petitioner shall execute a bond for Rs.10,000/- (Rupees ten thousand only) each to the satisfaction of the learned District Munsif cum Judicial Magistrate, Cheranmahadevi, Tirunelveli District.
- (iv) The petitioner shall appear before the concerned Court on the first working day of every month at 10.30 a.m., until further orders.
- (v) The petitioner is directed to deposit 50% of the compensation amount in S.T.C.No.1317 of 2012 on the file of the learned District Munsif cum Judicial Magistrate, Cheranmahadevi, Tirunelveli District, within a period of 3 weeks from the date of receipt of a copy of this order, without prejudice to his contention raised in this case.

sd/-
08/12/2017

/ TRUE COPY /

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



TO

1 THE I ADDITIONAL SESSIONS JUDGE, TIRUNELVELI.

2 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
CHERANMAHADEVI, TIRUNELVELI DISTRICT.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

+1. C.C. to M/S.S.PALANI VELAYUTHAM Advocate SR.No.35987

+1. C.C. to M/S.S.BALAJI Advocate SR.No.35949

ORDER

IN

CRL MP (MD) No.9996 of 2017

IN

CRL RC (MD) No.807 of 2017

Date :08/12/2017

MKV-CM-SAR 4/14.12.2017/3P-6C