



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

Monday, the Twelfth day of March Two Thousand Eighteen

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PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL MP(MD) Nos.871 and 872 of 2018

IN

CRL RC(MD) No.72 of 2018

A.MURUGAN

... PETITIONER / PETITIONER  
IN BOTH THE PETITIONS

Vs

GANESAN

... RESPONDENT / RESPONDENT  
IN BOTH THE PETITIONS

PRAYER IN CRL MP(MD)No.871/18:-

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence and compensation awarded in C.C.No.123 of 2012 dated 15.05.2015 on the file of the learned Judicial Magistrate No.II, Dindigul and confirmed by the Judgment dated 23.11.2017, made in C.A.No.24 of 2015 on the file of the learned Fast Track Mahila Court, Dindigul, pending disposal of the above Criminal Revision Case and thus render justice.

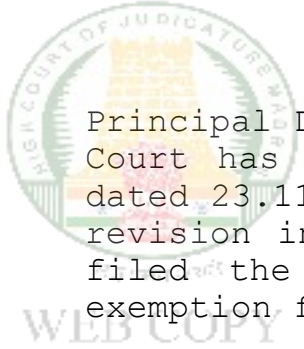
Prayer in CRL MP(MD). 872/ 2018 :

To exempt the petitioner from surrendering in C.A.No.24 of 2015 dated 23.11.2017 on the file of the learned Fast Track Mahila Court, Dindigul 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 MR.A.HARIHARAN, Advocate for the petitioner in both the petitions and the Respondent not appeared either in person or by an Advocate, in both the petitions, the court made the following order:-

It is seen that the petitioner has been convicted by the learned Judicial Magistrate No.II, Dindigul, in C.C.No.123 of 2012, on 15.05.2015, for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo six months simple imprisonment and to pay a compensation of Rs.2,00,000/- (Rupees Two Lakhs only) to the respondent/complainant, in default, to undergo one month simple imprisonment.

2. AS against the said conviction and sentence, the petitioner has preferred an appeal in C.A.No.24 of 2015, before the learned



Principal District and Sessions Judge, Dindigul. The first appellate Court has also confirmed the conviction and sentence, by judgment dated 23.11.2017, aggrieved by which, the petitioner has preferred a revision in CrI.R.C.No.72 of 2018. Along with the revision, he has filed the present applications for suspension of sentence and exemption from surrender, pending disposal of the said revision.

3. On 08.02.2018, this Court passed the following order:

*"Notice of motion returnable by 22.02.2018. Private notice is also permitted. Permission is also granted to the petitioner / accused to inform the learned counsel, who appeared for the respondent / complainant before the First Appellate Court and the Trial Court about the pendency of the revision, so that the respondent / complainant can make necessary arrangements to appear before this Court.*

*2. If the petitioner / accused deposits a sum of Rs.2,00,000/- (Rupees two lakhs only) being the cheque amount, to the credit of C.C.No.123 of 2012, on the file of the learned Judicial Magistrate No.II, Dindigul, on or before 22.02.2018, this Court will consider granting suspension of sentence and bail without surrendering before the Court below. It is made clear that the amount of Rs.2,00,000/- does not include the sum of Rs.25,000/- that is said to have been deposited by the petitioner / accused on the orders of the First Appellate Court.*

*3. Call on 22.02.2018."*

4. Today, Mr.Hariharan, learned counsel appearing for the petitioner submitted that in compliance of the order dated 08.02.2018, the petitioner has deposited Rs.2,00,000/- [Rupees Two Lakhs only] to the credit of C.C.No.123 of 2012 vide receipt No.93739, dated 21.02.2018 on the file of the learned Judicial Magistrate No.II, Dindigul.

5. In view of the above, this Court is of the view that this is a fit case to exempt the petitioner from surrendering and CrI.M.P.(MD)No.872 of 2018 is allowed accordingly.

6. Insofar as CrI.M.P.(MD)No.871 of 2018 is concerned, the learned counsel for the petitioner has raised substantial points in the memorandum of revision, which require a detailed consideration by this Court.

7. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner that there are several infirmities in the prosecution case in respect of the petitioner and that there are arguable points involved in the revision and further, the revision is not likely to



be taken up for final hearing in the near future, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

8. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Dindigul, and on further condition that:

- (i) the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity.
- (ii) the petitioner shall appear before the trial Court, at 10.30 a.m., on the first working day of every month until the disposal of the revision case and if he is not able to appear before the Trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C., and shall appear before the Trial Court on any other day in lieu of the date of his absence, as directed by the Trial Court;
- (iii) The learned Judicial Magistrate No.II, Dindigul, is directed to re-deposit the sum of Rs.2,00,000/- [Rupees Two Lakhs only] in any Nationalised Bank for a fixed period, not less than two years, so that the amount can be disbursed either to the petitioner or to the respondents, depending upon the outcome of CrI.R.C (MD) No.72 of 2018.
- (iv) The petitioner shall surrender before the learned Judicial Magistrate No.II, Dindigul, within a period of two weeks from the date of receipt of a copy of this order.

sd/-  
12/03/2018

/ TRUE COPY /

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

TO

1 THE JUDICIAL MAGISTRATE NO.II,  
<https://hcservices.ecourts.gov.in/hcservices/>  
DINDIGUL



2 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,  
DINDIGUL

3 THE JUDGE, FAST TRACK COURT,  
DINDIGUL

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+1. C.C. to M/S.A.HARIHARAN Advocate SR.No.3923

JAM/14/03/2018/ PN / SAR 2/ 4p-5c

ORDER  
IN  
CRL MP (MD) Nos.871 and 872 of 2018  
IN  
CRL RC (MD) No.72 of 2018  
Date :12/03/2018