



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

Monday, the Eighteenth day of June Two Thousand Eighteen
PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) Nos.3838 and 3839 of 2018
IN
CRL RC(MD) No.274 of 2018

M.JAFAR SHATHIK

... PETITIONER/ PETITIONER
in both the petitions

Vs

MAYANDI

... RESPONDENT/ RESPONDENT
in both the petitions

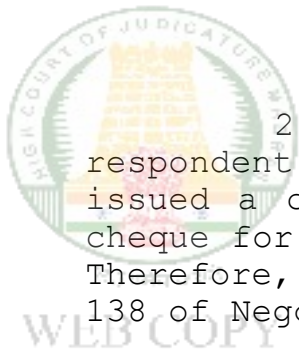
PRAYER IN CRL MP(MD) No.3838 of 2018 IN CRL RC(MD) No.274 of 2018:

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence in judgement made in Crl.A No.17/2015 on the file of the Additional District Sessions Court Periyakulam dated 08.01.2018 confirming the Judgement made in S.T.C No. 28/2012 on the file of the Judicial Magistrate (FTC) Uthamapalayam dated 22.04.2015 convicting the Petitioner for an offences u/s. 138 Negotiable instrument Act and sentence him undergo three months Rigorous Imprisonment and RS. 5000/- fine in default one week Simple imprisonment and allow the Criminal Revision Petition pending disposal of the Criminal Revision Petition.

Prayer in CRL MP(MD) . 3839/ 2018 IN CRL RC(MD) No.274 of 2018:

To exempt the Petitioner from surrender as per the judgement made in Crl. A No. 17/2015 on the file of the Additional District Sessions Court Periyakulam dated 08.01.2018 confirming the Judgement made in S.T.C No.28/2012 on the file of the Judicial Magistrate (FTC) Uthamapalayam dated 22.04.2015 convicting the Petitioner for an offence under section 138 of Negotiable Instrument Act and sentence undergo three months Rigorous Imprisonment and Rs. 5000/- fine in default one week Simple Imprisonment and pass any such further or other order and may deemed fit in the facts and circumstances of the case.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.N.MADHAVA GOVINDAN, Advocate for the petitioner and of Mr.C.M.ARUMUGAM, Advocate on behalf of the Respondent, the court made the following order:-



2.The petitioner borrowed a sum of Rs.3,00,000/- from the respondent on 06.01.2012 and in order to discharge his liability, he issued a cheque on 25.01.2012. When the respondent presented the cheque for encashment, the cheque was returned as 'No such Account'. Therefore, the petitioner has preferred a complaint under Section 138 of Negotiable Instruments Act.

3.It is seen that the petitioner has been convicted by the learned Judicial Magistrate (FTC), Uthamapalayam in S.T.C.No.28 of 2012 for the offence under Section 138 of Negotiable Instruments Act and sentenced to undergo three months rigorous imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only), in default to undergo one week simple imprisonment, by judgment dated 22.04.2015.

4.As against the said conviction and sentence, the petitioner has preferred an appeal in Crl.A.No.17 of 2015 before the Additional District and Sessions Court, Periyakulam. The first appellate Court has also confirmed the conviction and sentence, by its judgment dated 08.01.2018, aggrieved by which, the petitioner has preferred a revision in Crl.R.C.No.274 of 2018. Along with the revision, he has filed the present applications for suspension of sentence pending disposal of the said revision and for exemption of his surrender pursuant to the aforesaid Judgment.

5.On the side of the petitioner, it is stated that the petitioner is having arguable points for the revision and he prayed for suspension of sentence till the disposal of the revision and for exemption of his surrender pursuant to the aforesaid Judgment.

6.Records perused. The order of the learned Judicial Magistrate is already confirmed by the first Appellate Court and it is stated that the petitioner is having valid ground of revision and this Court is of the view that the petitioner herein is entitled to put forth his case in this revision petition.

7.This Court is inclined to grant suspension of sentence till the disposal of the case, 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 (FTC), Uthamapalayam and on further condition that:

(i) 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 on the first working day of every English Calendar month at 10.30 a.m., until the disposal



of the appeal 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.

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(iii) The petitioner shall deposit a sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand only) to the credit of S.T.C.No.28 of 2012, before the learned Judicial Magistrate (FTC), Uthamapalayam, on or before 25.06.2018; and

(iv) On such deposit, the learned Judicial Magistrate (FTC), Uthamapalayam,, shall re-deposit the sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand only) in any Nationalised Bank, so that, the amount accrues interest and the same can be disbursed depending upon the outcome of the Criminal Revision Case in Crl. R.C.(MD)No.274 of 2018.

(iii) The petitioner is exempted from surrendering before the trial Court for the purpose of furnishing sureties.

8. Post on 03.07.2018 'for reporting compliance'.

sd/-
18/06/2018

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

TO

1. THE JUDICIAL MAGISTRATE, (FAST TRACK COURT)
UTHAMAPALAYAM, THENI DISTRICT.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.
3. THE ADDITIONAL DISTRICT SESSIONS JUDGE,
PERIYAKULAM.

+2. C.C. to Mr.N.MADHAVA GOVINDAN Advocate SR.Nos.10635,10650

ORDER IN
CRL MP(MD) Nos.3838 and 3839 of 2018
IN CRL RC(MD) No.274 of 2018
Date :18/06/2018