



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

Tuesday, the Seventeenth day of July Two Thousand Eighteen

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.4767 of 2018

IN

CRL RC(MD) No.345 of 2018

S.MURUGAN

... PETITIONER/ REVISION PETITIONER

Vs

M.PETCHITHAI

... RESPONDENT/ RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the order of conviction dated 28/11/2017 passed in C.A.No.39/2016 on the file of the IIIrd Additional District Sessions Judge, Tirunelveli in confirming the order passed by the Judicial Magistrate Court, Valliyoor in STC.No.3178/2012 dated 18/01/2015 and to enlarge the petitioner on bail 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 Mr.R.SARAVANAN, Advocate for the petitioner and of Mr.D.VENKATESH, Advocate on behalf of the Respondent, the court made the following order:-

Heard Mr.R.Saravanan, learned counsel appearing for the petitioner. Though Mr.D.Venkatesh, learned counsel filed vakalath for the respondent, there is no representation on the side of the respondent.

2.This Petition is filed to suspend the sentence passed against the petitioner imposed by the learned III Additional District and Sessions Judge, Tirunelveli in C.A.No.39 of 2016 dated 28.11.2017 confirming the order passed by the learned Judicial Magistrate, Valliyoor in S.T.C.No.3178 of 2012 dated 18.01.2015, pending disposal of the Revision case.

3.The case against petitioner is that the petitioner borrowed a sum of Rs.5,00,000/- (Rupees Five Lakhs only) from the respondent and issued a cheque for the said amount. When the cheque was presented by the respondent for collection, it was returned as 'insufficient funds'. The respondent filed a case before the learned Judicial Magistrate, Valliyoor in S.T.C.No.3178 of 2012. The



petitioner was found guilty under Section 138 of Negotiable Instruments Act and was sentenced to undergo six months Simple Imprisonment. The petitioner filed an appeal in C.A.No.39 of 2016 dated 28.11.2017 before the learned III Additional District and Sessions Judge, Tirunelveli and the same was dismissed by confirming the order passed by the trial Court. Aggreived by the Judgment, the petitioner has filed the Criminal Revision Case.

4.On the side of the petitioner, it is stated that one Gopala krishnan introduced the petitioner to the respondent's husband namely Mariyappan. Both Mariyappan and Gopala Krishnan were not examined as witness in the lower Court. It is stated that the respondent is only a housewife and the examination of her husband and Gopala Krishnan is necessary. It is further stated that the petitioner has borrowed only a sum of Rs.60,000/- (Rupees Sixty Thousand only) and handed over three unfilled cheque leaves. The respondent misused the same and filed this case. In support, the Judgments passed the Hon'ble Supreme Court in the case of K.Subramani v. K.Damodara Naidu in Criminal Appeal No.2402 of 2014 and in the case of John K.Abraham v. Simon C.Abraham & Another in Criminal Appeal No.2043 of 2013 are cited. It is further stated that the petitioner is having three children and he is in custody for the past 101 days and the respondent is a money lender and that the lower Court failed to consider that there are earlier financial transactions between the respondent's husband and the petitioner and prayed to suspend the sentence imposed on the petitioner till the disposal of the case.

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

6.The petitioner is in custody for the past three months and this Court is inclined to grant suspension of the sentence till 24.07.2018, 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, Valliyoor 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.

7. Post on 24.07.2018 'for hearing the main appeal'.

sd/-
17/07/2018

/ TRUE COPY /

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

TO

1. THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TIRUNELVELI.
2. THE JUDICIAL MAGISTRATE, VALLIOOR.
3. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
4. THE SUPERINTENDENT, CENTRAL PRISON,
PALAYAMKOTTAI, TIRUNELVELI.

+1. C.C. to Mr.R.SARAVANAN Advocate SR.No.13192

ORDER
IN
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IN
CRL RC (MD) No.345 of 2018
Date :17/07/2018

MS/VR/ASVM/19.07.2018/3P.6C