



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

Tuesday, the Twelfth day of February Two Thousand Nineteen

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP (MD) No.1217 of 2019

IN

CRL RC (MD) No.35 of 2019

P.GANESAN

... PETITIONER/PETITIONER

Vs

M.SIVAKUMAR

... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed by the Learned V Additional District and Sessions Judge, (FTC), Theni dated 24.07.2018 in C.A.No.5 of 2018 on the file of the V Addl. District and Sessions Judge, Theni by reversing the order of acquittal made in S.T.C.No.18 of 2017 on the file of the Judicial Magistrate (FTC), Uthamapalayam and enlarge the petitioner on bail pending disposal of the main revision.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.S.SUNDARAPANDIAN, Advocate for the petitioner and of M/S.SAMUNDI BOSS, Advocate for MR.M.MUTHUSAMY, Advocate, while admitting the CRL RC(MD)., the court made the following order:-

The learned counsel for the petitioner submitted that the petitioner has been acquitted in respect of the offence under Section 138 of of Negotiable Instruments Act, made in STC No.18 of 2017 on the file of the Judicial Magistrate (FTC), Uthamapalayam, dated 21.12.2017 and against the judgment of acquittal, the complainant filed appeal before the V Additional District and Sessions Judge (FTC), Theni, in Crl.A.No.5 of 2018 and by judgment, dated 24.07.2018, the learned Judge convicted the petitioner and directed him to undergo Simple Imprisonment for one year and to pay compensation of Rs.2,00,000/- to the complainant within one month from the date of judgment and in default to undergo simple imprisonment for four months.

2.It is submitted by the learned counsel for the petitioner that there are several infirmities and material contradictions in this case and the petitioner was undergoing sentence of imprisonment from 21.01.2019.

<https://hcservices.ecourts.gov.in/hcservices/>

3.It is submitted by the learned counsel appearing for the respondent that there are enough materials available on record against the petitioner/accused and the first appellate court has



rightly convicted the petitioner and prays for dismissal of this petition.

4.This court has carefully considered the rival contentions put forward by their side and also perused the materials available on record.

5.The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that the petitioner has been undergoing sentence of imprisonment from 21.01.2019 and there are arguable points involved in this revision and further the revision is not likely to be taken up for final hearing in the near future and as such, this court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

6.Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the revision and the petitioner is directed to be enlarged on bail on condition that he executes a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties each for a like sum to the satisfaction of the Judicial Magistrate (FTC) Uthamapalayam and on further condition that the petitioner shall deposit 50% of the cheque amount (Rs.1,00,000/-) to the credit of STC No.18 of 2017 on the file of the Judicial Magistrate (FTC), Uthamapalayam, on or before 14.02.2019 and on further condition that the petitioner shall appear before the said court on the first working day of every month at 10.30 am, pending revision.

sd/-
12/02/2019

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

TO

1 THE V ADDITIONAL DISTRICT AND SESSIONS JUDGE, (FTC)
THENI

2 THE JUDICIAL MAGISTRATE (FTC), UTHAMAPALAYAM

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
THENI DISTRICT

+1 CC to MR.S.SUNDRAPANDIAN, Advocate (SR-2865 dated 12/02/2019)
ORDER IN
CRL MP (MD) No.1217 of 2019
CRL RC (MD) No.35 of 2019
Date :12/02/2019