



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

Tuesday, the Second day of April Two Thousand Nineteen

PRESENT

WEB COPY

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.2686 of 2019
IN
CRL RC(MD) No.174 of 2019

KESAVAN

... PETITIONER/ REVISION PETITIONER/
RESPONDENT/ ACCUSED

- Vs-

M.SHEIK MOHAMMAD(DIED AFTER DISPOSAL),
1 S.RAIGHANA SHEIK
2 SHAJITHA PARVEEN
3 BATCHA

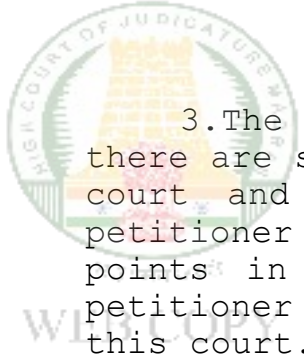
... RESPONDENTS/ REVISION RESPONDENTS/
APPELLANTS/ LEGAL HEIRS OF THE DECEASED COMPLAINANT

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 dated 18.09.2017 passed in Crl.Appeal No.37 of 2015 on the file of the learned Additional District and Sessions Judge, Theni at Periyakulam convicting the revision petitioner by reversing the judgment in STC.No.282 of 2011 on the file of the learned Fast Track Court (Magistrate Level), Theni, Theni District dated 28.05.2015 acquitting the petitioner from the charges under Section 138 of Negotiable Instruments Act, pending disposal of the above criminal revision petition.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.R.SHANKAR GANESH, Advocate for the petitioner and of Mr.J.DEVASENAN, Advocate on behalf of the Respondents, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence passed by the Additional District and Sessions Judge, Theni at Periyakulam, in Crl.A.No.37 of 2015, dated 18.09.2017, pending disposal of the above criminal revision.

2.The learned counsel for the petitioner submitted that petitioner was acquitted by the trial court, however, he was convicted by the first appellate Court and sentenced him to undergo simple imprisonment for 6 months and further ordered to pay compensation of Rs.50,000/- to the complainant within one month from the date of judgment and in default, to undergo simple imprisonment for the period of two months.



3.The learned counsel for the petitioner further submitted that there are several infirmities in the findings of the first appellate court and the first appellate court erred in convicting the petitioner without any material evidence and that there are arguable points in the main revision. It is further submitted that the petitioner is ready to abide by any condition that may be imposed by this court. In view of the above circumstances, the petitioner seeks the relief of suspension of sentence till the disposal of the revision.

4.It is submitted by the learned counsel appearing for the respondents that there are enough materials available on record against the petitioner to convict him and the first appellate court has rightly convicted the petitioner and prays for dismissal of this petition.

5.This court has carefully considered the rival contentions put forth on either side and also perused the materials available on record.

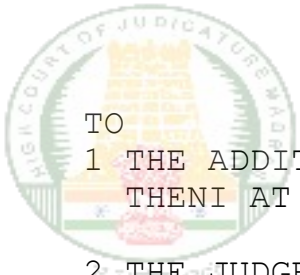
6.The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal revision and further the criminal revision is not likely to 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.

7.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 shall execute 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 Fast Track Court (Magistrate Level), Theni and on further condition that the petitioner shall deposit a sum of Rs.50,000/- before the Fast Track Court, (Magistrate Level), Theni, to the credit of STC No.282 of 2011 within a period of two weeks from the date of receipt of a copy of this order 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/-
02/04/2019

/ TRUE COPY /

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



TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
THENI AT PERIYAKULAM

2 THE JUDGE, FAST TRACK COURT
(MAGISTRATE LEVEL), THENI, THENI DISTRICT.

+1. C.C. to Mr.R.SHANKAR GANESH Advocate SR.No.6033

ORDER

IN

CRL MP (MD) No.2686 of 2019

IN

CRL RC (MD) No.174 of 2019

Date :02/04/2019

MS/MMS/SAR-3/30.04.2019/3P.4C