

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

Tuesday, the Sixth day of August Two Thousand Nineteen

PRESENT

The Hon'ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.3654 of 2019
IN
CRL RC(MD) No.246 of 2019

C.THANGAVEL

.. PETITIONER/APPELLANT/SOLE ACCUSED

Vs

P.BALASUBRAMANIAM

... RESPONDENT/RESPONDENT/COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the conviction and sentence imposed against the petitioner in C.A.No.62/2018 dated 17/10/2018 on the file of the Learned Additional Sessions Court, Karur by confirming the sentence passed by the Learned Judicial Magistrate/Fast Track Court at Magisterial Level, Karur in C.C.NO.567/2013 dated 07/05/2018 and enlarge the petitioner on bail in pending disposal of the above Crl.R.C.

PRAYER IN CRL RC(MD) No.246 of 2019:

Pleased call for records and to set aside the order passed in C.A.No.62 of 2018 dated 17.10.2018 and the Learned Additional Sessions Court, Karur, by confirming the sentence passed by the Learned Judicial Magistrate/Fast Track Court at Magisterial Level, Karur, in C.C.No.567/2013, dated 07.05.2018 and acquit the petitioner and thus render justice.

ORDER : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.R.MATHIYALAGAN, Advocate for the petitioner and of Mr.D.Anandan, Advocate for the Respondents While Admitting the Crl.R.C., the court made the following order:-

The learned counsel for the petitioner submitted that the petitioner has been convicted by the trial Court for the alleged offence under Section 138 of Negotiable Instrument Act, and sentenced to undergo simple imprisonment for a period of six months and to pay a fine of Rs.2,000/- (Rupees two thousand only), in

default to undergo simple imprisonment for a period of 30 days in C.C.No.567 of 2013, on the file of the learned Judicial Magistrate / Fast Track Court at Magisterial Level, Karur.

2.The learned Additional Sessions Judge, Karur confirmed the conviction and sentence and dismissed the Criminal Appeal No.62 of 2018, dated 17.10.2018.

3.It is submitted by the learned counsel for the petitioner that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

4.It is submitted by the learned counsel for the respondent that there are enough materials available on record against the petitioner and prays for dismissal of this petition.

5.This Court has carefully considered the rival contentions put forward by 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, the suspension of sentence petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the revision on the following conditions:-

(i) the petitioner is directed to be enlarged on bail on his executing 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 learned Judicial Magistrate / Fast Track Court at Magisterial Level, Karur;

(ii) Since the cheque amount is Rs.5,25,000/- the petitioner is directed to deposit 20% of the same i.e a sum of Rs.1,05,000/- (Rupees One lakh and five thousand only) to the credit of C.C.No.567 of 2013, on the file of the learned Judicial Magistrate / Fast Track Court at Magisterial Level, Karur within a period of two weeks from the date of receipt of a copy of this order;

(iii) and on further condition that the petitioner shall appear before the said Court on daily at 10.30 a.m pending revision.

Sd/-
06/08/2019

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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
at Magisterial Level, Karur
2. The Additional Sessions Judge,
Karur

ORDER
IN
CRL MP (MD) No.3654 of 2019
IN
CRL RC (MD) No.246 of 2019
Date :06/08/2019

vsd
ES/PN/SAR 3/13.08.2019/4P/3C

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