

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

Friday, the Twenty Sixth day of July Two Thousand Nineteen

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.6083 of 2019
IN
CRL RC(MD) No.424 of 2019

BALUSAMY THEVAR

... PETITIONER/APPELLANT/
ACCUSED

Vs

SENTHILARASU

... 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 sentence in Judgment dated in C.A.No.33 of 2018 passed by the Principal Sessions Court by confirming the Judgment dated 12.03.2019 in C.C.No.11 of 2016 passed by the Learned Judicial Magistrate No.II, Dindigul District pending disposal of the 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.D.SASI KUMAR, Advocate for the petitioner and of Mr.S.SARVAGAN PRABHU, Advocate on behalf of the Respondent, 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 pay a fine of Rs.5,10,000/- within one month and in default to undergo simple imprisonment for a period of two months and further directed that out of the said fine amount of Rs.5,10,000/- the complainant is to be given Rs.5,05,000/- as compensation in C.C.No.11 of 2016 on the file of the Judicial Magistrate No.II, Dindigul District.

2.The learned Principal Sessions Judge, Dindigul, confirmed the conviction and sentence and dismissed the Criminal Appeal No.33 of 2018, dated 12.03.2019.

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 Judicial Magistrate No.II, Dindigul.

(ii) the petitioner is directed to deposit a sum of Rs.1,00,000/- (Rupees One lakh only) to the credit of C.C.No.11 of 2016, on the file of the Judicial Magistrate No.II, Dindigul on or before 16.08.2019;

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

sd/-
26/07/2019

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

TO

1.THE PRINCIPAL SESSIONS JUDGE,
DINDIGUL DISTRICT.

2.THE JUDICIAL MAGISTRATE NO II,
DINDIGUL.

3.THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL DISTRICT.

+1. C.C. to Mr.D.SASI KUMAR Advocate SR.No.12387

+1. C.C. to Mr.S.SARVAGAN PRABHU Advocate SR.No.12418

ORDER

IN

CRL MP (MD) No.6083 of 2019

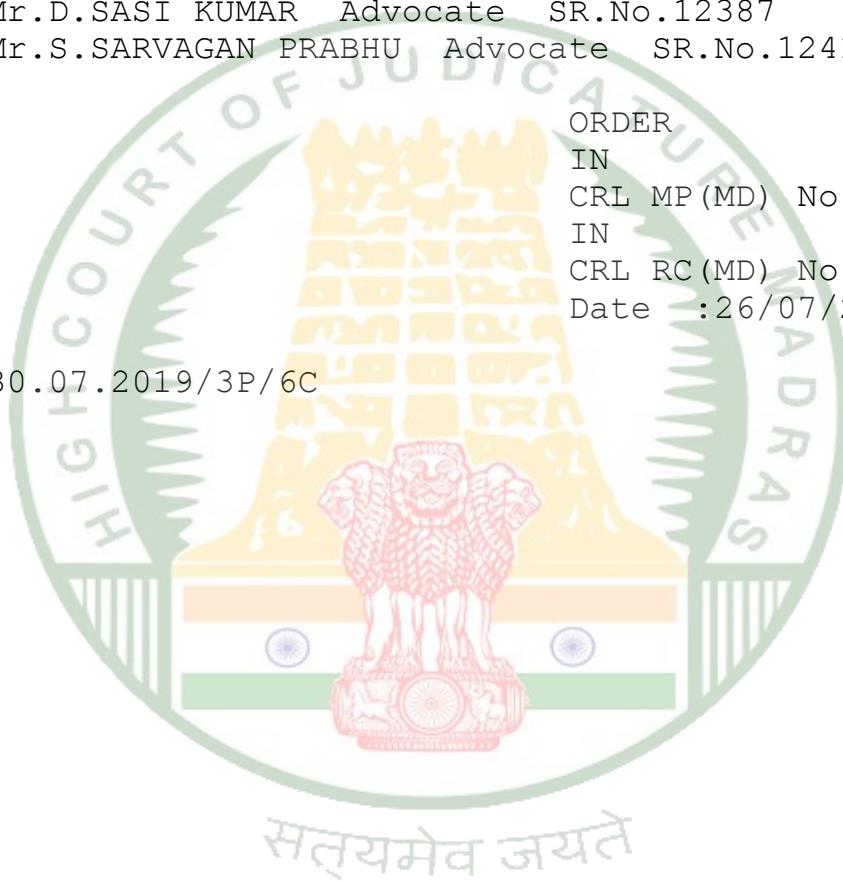
IN

CRL RC (MD) No.424 of 2019

Date :26/07/2019

vsd

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