



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

Tuesday, the Twentieth day of August Two Thousand Nineteen

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.6896 of 2019

IN

CRL RC(MD) No.528 of 2019

K.BABU

... PETITIONER/PETITIONER

Vs

K.VELAPPAN

... RESPONDENT/RESPONDENT

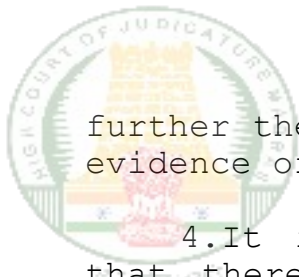
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to pass an order for suspension of sentence passed in the judgment, dated 13.12.2018 in CA.No.60 of 2014 on the file of the Court of Principal Sessions, Kanyakumari Division, Nagercoil by confirming the sentence passed in the judgment dated 13.11.2014 in C.C.No.273 of 2009 on the file of the Court of Principal District Munsif cum Judicial Magistrate at Eraniel and release the petitioner on Bail, 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 M/S.J.JOHN JAYAKUMAR, Advocate for the petitioner and of MR..ARUL, Advocate for 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 the Negotiable Instruments Act and sentenced to undergo simple imprisonment for a period of six months to pay a fine of Rs.6,00,000/- as compensation paid within two months, in default to undergo simple imprisonment for a period of three months in C.C.No.273 of 2009, on the file of the Principal District Munsif cum Judicial Magistrate, Eraniel.

2.The learned Principal Sessions, Kanyakumari Division at Nagercoil confirmed the conviction and sentence and dismissed the Criminal Appeal No.60 of 2014, dated 13.12.2018.

3.It is submitted by the learned counsel for the petitioner that there are several infirmities in the prosecution case and
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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 District Munsif Cum Judicial Magistrate, Bodinaickanoor;

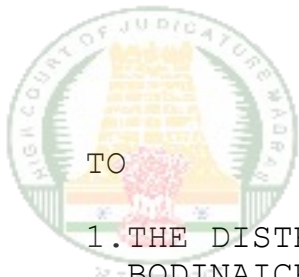
(ii) Since the cheque amount amount is Rs.6,00,000/-, the petitioner is directed to deposit 20% of the same i.e a sum of Rs.1,20,000/- (Rupees One lakh and twenty thousand only) to the credit of C.C.No.273 of 2009, on the file of the learned Principal District Munsif cum Judicial Magistrate, Eraniel, 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 daily at 10.30 a.m., pending revision.

sd/-
20/08/2019

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



TO

1. THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
BODINAICKANOOR.

2. DO THRO' THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.

3. THE PRINCIPAL DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
ERANIEL.

4. DO THRO' THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI AT NAGERCOIL.

5. THE PRINCIPAL SESSIONS JUDGE,
KANYAKUMARI DIVISION, NAGERCOIL.

+1 CC to M/s. J. JOHN JAYAKUMAR, Advocate (SR-13720[I] dated
20/08/2019)

+1 CC to MR. T. ARUL, Advocate (SR-13732[I] dated 20/08/2019)

ORDER

IN

CRL MP(MD) No.6896 of 2019

IN

CRL RC(MD) No.528 of 2019

Date : 20/08/2019

GNS

AE/JC/SAR-II (28.08.2019) 3P 8C