



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

Tuesday, the Twenty Eighth day of January Two Thousand Twenty
PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) Nos.69 and 70 of 2020

IN

CRL RC(MD) No.12 of 2020

RAYMOND

... PETITIONER/PETITIONER
IN BOTH PETITIONS

Vs

ANTON SELVA KUMAR

... RESPONDENT/RESPONDENT
IN BOTH PETITIONS

Prayer in CRL MP(MD)No. 69/ 2020 :

Pleased to enlarge the petitioner on bail by suspending the sentence imposed in C.A.No.70 of 2018 by the III Additional District and Sessions Judge, Tirunelveli dated 04.11.2019 confirming the judgment of conviction and sentence made in C.C.No.276 of 2014 by the Judicial Magistrate, Valliyoor, dated 26.06.2018 pending disposal of the above Criminal Revision Case.

Prayer in CRL MP(MD)No. 70/ 2020 :

Pleased to exempt her from undergoing the sentence imposed in C.A.No.70 of 2018 by the III Additional District and Sessions Judge, Tirunelveli dated 04.11.2019 confirming the judgment of conviction and sentence made in C.C.No.276 of 2014 by the Judicial Magistrate, Valliyoor, dated 26.06.2018 pending disposal of the above Criminal Revision Case.

Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of M/S.A.MOHAMED HANEFF, Advocate for the petitioner in both petitions and of M/s.S.Palani Velayutham, Advocate for the Respondent in both petitions, 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 r/w 142 of Negotiable Instrument Act, and sentenced him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.5,000/- in default to undergo simple imprisonment for a period of one month and further the petitioner is directed to pay compensation of Rs.10,000/- (Rupees Ten thousand only) to the complainant in C.C.No.276 of 2014, on the file of the learned Judicial Magistrate, Valliyoor.



2.The learned III Additional District and Sessions Judge, Tirunelveli, confirmed the conviction and sentence and dismissed the Criminal Appeal No.70 of 2018, dated 04.11.2019.

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 learned Judicial Magistrate, Valliyoor;

(ii) Since the cheque amount is Rs.4,00,000/- the petitioner is directed to deposit 20% of the same i.e a sum of Rs.80,000/- (Rupees Eighty thousand only) to the credit of C.C.No.276 of 2014, on the file of the learned Judicial Magistrate, Valliyoor, 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.



8.The petitioner is exempted from surrendering before the trial Court for the purpose of furnishing sureties.

sd/-
28/01/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TIRUNELVELI
- 2 THE JUDICIAL MAGISTRATE,
VALLIYOOR.
- 3 -DO-THRO- THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

+1 CC to M/s.S.PALANI VELAYUTHAM, Advocate (SR-1776 dated 29/01/2020)
+1 CC to M/s.M.P.SENTHIL, Advocate (SR-1802[I] dated 29/01/2020)

ORDER
IN
CRL MP (MD) Nos.69 & 70 of 2020
IN
CRL RC (MD) No.12 of 2020
Date :28/01/2020

vsd
ES/PN/SAR 2/29.01.2020/3P/6C