



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

Friday, the Seventh day of February Two Thousand Twenty

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) Nos.184 and 186 of 2020
IN
CRL RC(MD) No.24 of 2020

S.CHRISTAL JOY

... PETITIONER/ PETITIONER
IN BOTH PETITIONS

Vs

K.MOHAN

... RESPONDENT/ RESPONDENT
IN BOTH PETITIONS

PRAYER IN CRL MP(MD)No.184 of 2020 IN CRL RC(MD) No.24 of 2020:

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to Suspend the sentence imposed by the Learned Additional District and Sessions Judge (Fast Track), Kanyakumari at Nagercoil in C.A.No.64/2016, dated 08.11.2019 by confirming the judgment passed by the Learned Fast Track Court (Magisterial Level) No.1, Nagercoil in S.T.C.No.375 of 2014 dated 21.09.2016 pending disposal of main Revision.

PRAYER IN CRL MP(MD)No.186 of 2020 IN CRL RC(MD) No.24 of 2020:

To Exempt the Petitioner from surrendering before the Trial Court pursuant to the judgment passed by Learned Additional District and Sessions Judge (Fast Track), Kanyakumari at Nagercoil in C.A.No.64/2016 dated 08.09.2019 by confirming the judgment passed by the Learned Fast Track Court (Magisterial Level) No.1, Nagercoil in S.T.C.No.375 of 2014 dated 21.09.2016 pending disposal of main Revision.

Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of Mr.N.DILIP KUMAR, Advocate for the petitioner in both petitions and of No Appearance either in person or by an 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 of Negotiable Instrument Act, and sentenced him to undergo simple imprisonment for a period of six months and to pay a sum of Rs.7,30,000/- (Rupees Seven Lakhs Thirty



thousand only) to the respondent as compensation within a period of two months in S.T.C.No.375 of 2014, on the file of the learned Judicial Magistrate, Fast Track Court (Magisterial Level) No.1, Nagercoil.

2.The learned Additional District and Sessions Judge (Fast Track), Kanniyakumari at Nagercoil, confirmed the conviction and the sentence passed by the trial Court for a period of six months simple imprisonment for the offence under Section 138 of NI Act alone is hereby set aside and the compensation imposed by the trial Court is hereby confirmed and the appellant is hereby directed to pay a sum of Rs.7,30,000/- to the respondent, in default the appellant to undergo simple imprisonment for a period of six months and dismissed the Criminal Appeal No.64 of 2016, dated 08.11.2019.

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.No representation on behalf of the respondent.

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 Fast Track Court (Magisterial Level) No.1, Nagercoil;

(ii) Since the cheque amount is Rs.7,30,000/- (Rupees Seven lakhs thirty thousand only) the petitioner is directed to deposit 20% of the same i.e a sum of Rs.1,46,000/- (Rupees One lakh forty six thousand only) to the credit of S.T.C.No.375 of 2014, on the file of the learned Judicial Magistrate, Fast Track Court (Magisterial Level) No.1, Nagercoil within a period of two weeks

<https://hcservices.mca.gov.in/toservices/> 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.

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

sd/-
07/02/2020

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

TO

1.THE ADDITIONAL DISTRICT AND SESSIONS JUDGE
(FAST TRACK), KANYAKUMARI AT NAGERCOIL.

2.THE JUDICIAL MAGISTRATE, FAST TRACK COURT,
(MAGISTRATE LEVEL)NO I, NAGERCOIL.

3.THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL

+1. C.C. to M/S.N.DILIP KUMAR Advocate SR.No.2583

ORDER
IN
CRL MP(MD) Nos.184 and 186 of
2020 IN
CRL RC(MD) No.24 of 2020
Date :07/02/2020

VSD
TK/VR/SAR.3/10.02.2020/3P/5C