



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

Thursday, the Eighth day of October Two Thousand Twenty

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) Nos.145 & 146 of 2020

IN

CRL RC(MD) No.18 of 2020

P.MUTHAIAH

... PETITIONER/ PETITIONER
IN BOTH THE PETITIONS

Vs

L.ARUMUGAM

... RESPONDENT/ RESPONDENT
IN BOTH THE PETITIONS

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the execution of sentence in C.A.85/2018 dated 11.12.2019 on the file of the learned VI Additional Sessions Judge, Madurai reversing the judgment passed by the learned Judicial Magistrate No.II, cum Fast Track Court(Magistrate level), Madurai in S.T.C.No.125/2016 dated 13.04.2018.

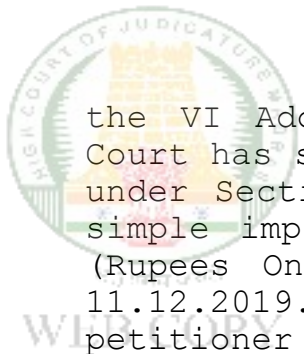
Prayer in CRL MP(MD). 146/ 2020 :

To exempt the petitioner to appear before the learned VI Additional Sessions Judge, Madurai in C.A.No.85/2018 dated 11.12.2109 reversing the judgment of Learned Judicial Magistrate No.II, cum Fast Track Court (Magistrate Level), Madurai in S.T.C.No.125/2016 dated 13.04.2018 and enlarge the petitioner/appellant or anticipatory Bail, pending disposal of the above said Criminal Revision.

Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of MR.G.KARUPPASAMY PANDIYAN, Advocate for the petitioner in both the petitions and of MR.G.VINOTH KUMAR, Advocate on behalf of the Respondent in both the petitions, the court made the following order:-

It is seen that the accused / petitioner herein has been acquitted by the Judicial Magistrate No.2 cum Fast Track Court (Magistrate Level), Madurai, in S.T.C.No.125 of 2016 for the offence under Section 138 of Negotiable Instruments Act.

2. As against the order of acquittal, the defacto complainant / respondent herein preferred an appeal in C.A.No.85 of 2018 before



the VI Additional Sessions Judge, Madurai. The First Appellate Court has set aside the order of acquittal and convicted the accused under Section 138 of N.I.Act and was sentenced to undergo one year simple imprisonment and to pay a compensation of Rs. 1,30,000/- (Rupees One Lakh Thirty Thousand only), by its judgment, dated 11.12.2019. Aggrieved by the order of conviction and sentence, the petitioner herein / accused has preferred a revision in Crl.R.C.(MD) No.18 of 2020. Along with the revision, he has filed the present application for suspension of sentence pending disposal of the said revision.

3. The learned counsel for the petitioner submitted that the Appellate Court failed to consider that except the said cheque and the oral evidence of complaint, no other tangible materials are let-in to show the loan transaction between the petitioner and the complainant. Moreover, the date on which the amount was borrowed has not been stated in the evidence of the complainant.

4. The learned counsel for the petitioner has stated that there are several infirmities in the prosecution case in respect of the petitioner and that there are arguable points involved in the revision. To prove his bonafide the petitioner is ready to deposit 20% of the cheque amount before the trial Court.

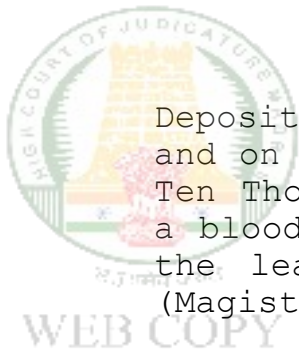
5. The learned counsel for the petitioner has raised substantial points in the memorandum of revision, which requires a detailed consideration by this Court.

6. Considering the facts and circumstances of the case and also considering the submissions of the petitioner's counsel and considering that the revision is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

7. Accordingly, Crl.M.P.(MD)No.145 of 2020 is allowed and the substantive sentence of imprisonment alone is suspended and the petitioner is ordered to be released on bail on the following conditions:-

(i) the petitioner is not exempted from surrendering before the trial Court and the petitioner is directed to surrender before the learned Judicial Magistrate No.2 cum Fast Track Court (Magistrate Level), Madurai, on or before 28.10.2020;

(ii) the petitioner shall deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) to the credit of S.T.C.No.125 of 2016, before the Judicial Magistrate No.2 cum Fast Track Court (Magistrate Level), Madurai, on or before 28.10.2020.



Depositing a sum of Rs.50,000/- (Rupees Fifty Thousand only) and on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate No.2 cum Fast Track Court (Magistrate Level), Madurai;

(iii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of their any valid identity proof to ensure their identity.

(iv) the petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the revision.

(v) On such deposit, the learned Judicial Magistrate No.2 cum Fast Track Court (Magistrate Level), Madurai, shall re-deposit the same [Rs.50,000/- (Rupees Fifty Thousand only)] in a Nationalised Bank, in a fixed deposit scheme, so that, the amount accrued interest and the same can be disbursed depending upon the outcome of the Criminal Revision Case in Crl. R.C.(MD)No.18 of 2020.

8. Accordingly, Crl.M.P.(MD)No.146 of 2020 is dismissed.

sd/-
08/10/2020

/ TRUE COPY /

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

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1 THE VI ADDITIONAL SESSIONS JUDGE,
MADURAI.

2 THE JUDICIAL MAGISTRATE NO.II
CUM FAST TRACK COURT (MAGISTRATE LEVEL),
MADURAI.

<https://hcservices.ecourts.gov.in/hcservices/>



3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.

COPY TO:

THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP (MD) Nos.145
& 146 of 2020
IN
CRL RC (MD) No.18 of 2020
Date :08/10/2020

LS
JM/VR/SAR IV/09.10.2020/4P/5C