



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.535 and 536 of 2020
IN
CRL RC(MD) No.58 of 2020

V.PALANISAMY

... PETITIONER/PETITIONER
IN BOTH PETITIONS

Vs

C.SIVASAMY

... RESPONDENT/ RESPONDENT
IN BOTH PETITIONS

PRAYER IN CRL MP(MD)No.535 of 2020 IN CRL RC(MD) No.58 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 in judgment dated 29.11.2019 made in Crl.A.No.68/2019 on the file of Additional Sessions Judge, Karur confirming the judgment and sentence passed in C.C.No.11/2017 on the file of Judicial Magistrate/Fast Track Court, Karur, dated 09.07.2019, convicting the petitioner for an offence under Section 138 of Negotiable Instrument Act and sentence to undergo 3 months simple imprisonment and award compensation sum of Rs.5,00,000/- in favour of the respondent under Section 357(3) of Cr.P.C., pending disposal of the Criminal Revision Petition.

PRAYER IN CRL MP(MD)No.536 of 2020 IN CRL RC(MD) No.58 of 2020:

To exempt the petitioner from surrender, as per the judgment dated 29.11.2019 made in Crl.A.No.68/2019 on the file of Additional Sessions Judge, Karur confirming the judgment and sentence passed in C.C.No.11/2017 on the file of Judicial Magistrate/Fast Track Court, Karur, dated 09.07.2019, convicting the petitioner for an offence under Section 138 of Negotiable Instrument Act and sentence to undergo 3 months simple imprisonment and award compensation sum of Rs.5,00,000/- in favour of the respondent under Section 357(3) of Cr.P.C.

Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of Mr.S.GOKULRAJ, Advocate for the petitioner in both petitions, and of Mr.V.NAGARAJAN, Advocate on behalf of the Respondent in both petitions, the court made the following order:-

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



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 three months and to pay a sum of Rs.5,00,000/- (Rupees Five Lakhs only) to the complainant as compensation within a period of one month in C.C.No.11 of 2017, on the file of the learned Judicial Magistrate, Fast Track Court, Karur.

2.The learned Additional Sessions Judge, Karur, confirmed the conviction and the sentence and dismissed the Criminal Appeal No.68 of 2019, dated 29.11.2019.

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, Fast Track Court, Karur;

(ii) Since the cheque amount is Rs.5,00,000/- (Rupees Five lakhs only) the petitioner is directed to deposit 20% of the same i.e a sum of Rs.1,00,000/- (Rupees One lakh only) to the credit of C.C.No.11 of 2017 on the file of the learned Judicial Magistrate, Fast Track Court, Karur, within a period of two weeks from the date

<https://hcservices.court.gov.in/hcservices> 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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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1.THE ADDITIONAL SESSIONS JUDGE, KARUR.

2.THE JUDICIAL MAGISTRATE,
FAST TRACK COURT, KARUR.

3.THE CHIEF JUDICIAL MAGISTRATE,
KARUR DISTRICT

+1 CC to M/s.G.MOHANKUMAR, Advocate (SR-2588[I] dated 07/02/2020)

ORDER
IN
CRL MP(MD) Nos.535 and 536
of 2020 IN
CRL RC(MD) No.58 of 2020
Date :07/02/2020

vsd
TK/VR/SAR.1/11.02.2020/3P/5C