



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Tuesday, the Second day of June Two Thousand and Twenty

WEB COPY

PRESENT

The Hon'ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.626 of 2020

IN

CRL A(MD) No.46 of 2020

NAGARAJAN

... PETITIONER/APPELLANT

Vs

V.MUTHAIAH

... RESPONDENT/RESPONDENT

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 by granting bail in C.A.No.67 of 2018 on the file of Principal Sessions Judge, Sivagangai, dated 13/12/2019, till the disposal of Criminal appeal and thus render justice.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.K.PRABHU, Advocate for the petitioner and of Mr.R.M.ARUN SWAMINATHAN on behalf of the Respondents the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the conviction and sentence order passed by the Principal Sessions Judge, Sivagangai, dated 13.12.2019, in C.A.No.67 of 2018 and enlarge the petitioner on bail pending disposal of the criminal appeal.

2. The learned counsel appearing for the petitioner/accused submitted that the respondent/complainant filed complaint under section 200 Cr.P.C r/w 138 of the Negotiable Instruments Act against the petitioner before the Judicial Magistrate/Fast Track Court, Karaikudi, in C.C.No.95 of 2017 alleging that the petitioner had borrowed a total sum of Rs.3,00,000/- on two occasions and on demand, he issued two cheques for a sum of Rs.3,00,000/- and when the said cheques were presented through bank, they were returned with the reason **Funds Insufficient** and the trial court after full fledged trial, acquitted the petitioner and on appeal, the petitioner was convicted by the Principal Sessions Judge, Sivagangai and sentenced him to undergo two years simple imprisonment and to pay a sum of Rs.3,50,000/- as compensation to the complainant within



one month, in default to undergo further simple imprisonment of three months. Aggrieved by the judgment of the first appellate court, the petitioner is before this court.

3. The learned counsel appearing for the petitioner further submitted that the petitioner is a fair chance of success in this appeal and he is ready to abide by any condition that may be imposed by this court.

4. Heard the learned counsel appearing for the respondent/complainant and perused the materials available on record.

5. The learned counsel for the petitioner pointed out 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 appeal and further the criminal appeal 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.

6. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal on the following conditions;-

(i) The petitioner is ordered to be enlarged on bail on condition that he shall execute 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 Judicial Magistrate/Fast Track Court, Karaikudi, Sivagangai District;

(ii) Since the cheque amount is Rs.3,00,000/-, the petitioner is directed to deposit 20% of the same i.e Rs.60,000/- (Rupees Sixty thousand only) to the credit of C.C.No.95 of 2017, on the file of the Judicial Magistrate, Fast Track Court, Karaikudi, within a period of two weeks from the date of receipt of a copy of this order. On such deposit, the respondent/complainant is permitted to withdraw the deposited amount; and

(iii) On further condition that the petitioner shall appear before the said Court once in a month at 10.30 am pending appeal.

sd/-
02/06/2020

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



TO

1. THE JUDICIAL MAGISTRATE,
FAST TRACK COURT,
KARAIKUDI,
SIVAGANGAI DISTRICT.
2. DO THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.
3. THE SESSIONS JUDGE,
SIVAGANGAI.

+1 CC to M/s.K.PRABHU, Advocate (SR-5734[I] dated 03/06/2020)
+1 CC to M/s.K.PRABHU, Advocate (SR-5733[I] dated 03/06/2020)

ORDER
IN
CRL MP (MD) No.626 of 2020 IN
CRL A (MD) No.46 of 2020
Date :02/06/2020

ER
SRS/ VR/ SAR-III/ 03.06.2020/ 3P/6C