



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

Wednesday, the Twenty Sixth day of February Two Thousand Twenty

PRESENT

The Hon'ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) Nos.1092 and 1093 of 2020
IN
CRL RC(MD) No.127 of 2020

SELVA KUMAR

... PETITIONER/PETITIONER/
APPELLANT/ACCUSED
IN BOTH PETITIONS

Vs

JEYA KUMARI

... RESPONDENT/RESPONDENT/
RESPONDENT/COMPLAINANT
IN BOTH PETITIONS

Prayer in CRL MP(MD)No.1092/2020 :

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence and release the petitioner on bail against the judgment passed in C.A.No.108/2017 dated 30.09.2019 on the file of III Additional District and Sessions Judge, Trichy by confirming the judgment in S.T.C.No.1270/2011 dated 30.10.2017 on the file of the learned J.M. No.VI, Trichy.

Prayer in CRL MP(MD)No.1093/2020 :

to exempt the petitioner by appearing in C.A.No.108/2017 dated 30.09.2019 on the file of III Additional District and Sessions Judge, Trichy by confirming the judgment in S.T.C.No.1270/2011 dated 30.10.2017 on the file of the learned J.M. No.VI, Trichy.

Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of M/S.T.SENTHIL KUMAR, Advocate for the petitioner in both petitions and of Mr.K.ARUN RAJ, Advocate on behalf of the Respondents 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 Instruments Act, and sentenced him to undergo simple imprisonment for a period of 1 year

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and to pay a sum of Rs.7,00,000/- (Rupees Seven lakhs only) to the complainant as compensation within a period of three months in default to undergo simple imprisonment for a period of three months in S.T.C.No.1270 of 2011 on the file of the learned Judicial Magistrate No.VI, Tiruchirappalli.

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2.The learned III Additional District and Sessions Judge, Tiruchirappalli, confirmed the conviction and sentence and dismissed the Criminal Appeal No.108 of 2017, dated 30.09.2019.

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 he strongly opposed to grant suspension of sentence. Counter has not been filed on the side 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 learned Judicial Magistrate No.VI, Tiruchirappalli;

(ii) Since the cheque amount is Rs.7,00,000/- the petitioner is directed to deposit 20% of the same i.e a sum of Rs.1,40,000/- (Rupees One lakh forty thousand only) to the credit of S.T.C.No.1270 of 2011 on the file of the learned Judicial Magistrate No.VI, Tiruchirappalli, within a period of four 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.

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sd/-
26/02/2020

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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,
TRICHY.
2. THE JUDICIAL MAGISTRATE No.VI, TRICHY.
3. -DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.

+2 CC to M/s.T.SENTHIL KUMAR, Advocate (SR-4340 & 4341[I] dated
28/02/2020)

ORDER IN
CRL MP (MD) Nos.1092 & 1093/2020
IN
CRL RC (MD) No.127 of 2020
Date :26/02/2020

VSD
TE/JC/SAR-III : 04/03/2020 : 3P/6C