



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.M.P.(MD) Nos.1776 and 1777 of 2020
in
Crl.RC.(MD) No.197 of 2020

R.JYOTHIMURUGAN

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

Vs

P.VIVEKANANTHAN

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

PRYAER IN Crl.M.P.(MD) No.1776 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 of the petitioner passed by the learned Judicial Magistrate (FTC), Karur in C.C.No.408 of 2017 on 17.05.2019 which is confirmed by the learned Additional Sessions Judge(FTMC), Karur in C.A.No.77 of 2019 on 12.12.2019 pending disposal of the above Criminal Revision Petition.

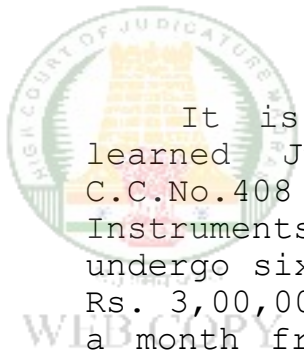
Prayer in CRL MP(MD). 1777/ 2020 :

to exempt the petitioner from surrender before the learned Judicial Magistrate (FTC), Karur in C.C.No.408 of 2017 pending disposal of the above Criminal Revision petition.

PRAYER IN Crl.RC.(MD) No.197 of 2020:

To call for the records pursuant to the impugned judgment passed by the learned Judicial Magistrate(Fast Track Court), Karur on 17.05.2019 which was subsequently confirmed by the learned Additional Sessions Judge/ FTMC, Karur on 12.12.2019 and set aside the same.

Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of M/S.G.R.SATISH, Advocate for the petitioner in both the petitions, the court made the following order:-



It is seen that the petitioner has been convicted by the learned Judicial Magistrate, (Fast Track Court), Karur, in C.C.No.408 of 2017 for the offence under Section 138 of Negotiable Instruments Act and Section 255 (2) Cr.P.C. and was sentenced to undergo six months simple imprisonment and to pay a compensation of Rs. 3,00,000/- (Rupees Three Lakhs only), to the complainant, within a month from the date of this judgment, by its judgment, dated 17.05.2019.

2. As against the said conviction and sentence, the petitioner has preferred an appeal in C.A.No.77 of 2019, before the Additional Sessions Judge / Fast Track Mahila Court, Karur. The first appellate Court has also confirmed the conviction and sentence, by its judgment, dated 12.12.2019. Aggrieved by the same, the petitioner has preferred a revision in Crl.R.C.(MD)No.197 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 trial Court failed to consider the contradiction between the complaint and the deposition of the complainant in his cross examination. During cross examination, the complainant deposed that he gave money to the appellant at his home, but, he did not make such statement either in his complaint or in the proof affidavit.

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.

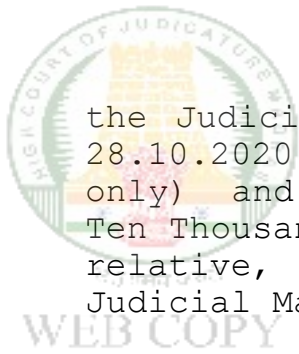
5. The learned counsel for the petitioner has raised substantial points in the memorandum of revision, which requires a detailed consideration by this Court.

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.1776 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 Judicial Magistrate, (Fast Track Court), Karur, on or before 28.10.2020;

(ii) the petitioner shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) to the credit of C.C.No.408 of 2017, before



the Judicial Magistrate, (Fast Track Court), Karur, on or before 28.10.2020. Depositing a sum of Rs.1,00,000/- (Rupees One Lakh 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, (Fast Track Court), Karur;

(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, (Fast Track Court), Karur, shall re-deposit the same [Rs.1,00,000/- (Rupees One Lakh 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.197 of 2020.

8. Accordingly, Crl.M.P.(MD) No.1777 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 ADDITIONAL SESSIONS JUDGE, FTMC, KARUR.
 2. THE JUDICIAL MAGISTRATE, (FAST TRACK COURT), KARUR.
 3. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE, KARUR DISTRICT.
- +1CC TO M/S.G.R.SATISH, Advocate, SR NO.6868

ORDER IN

Crl.M.P.(MD) Nos.1776 and 1777 of 2020

IN CRL RC(MD) No.197 of 2020

Date : 08/10/2020