



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

Friday, the Third day of January Two Thousand Twenty

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.5246 of 2019
IN
CRL RC(MD) No.349 of 2019

A.S.P.RAJU

... PETITIONER/ PETITIONER

Vs

MOHANDOSS

... RESPONDENT/ RESPONDENT

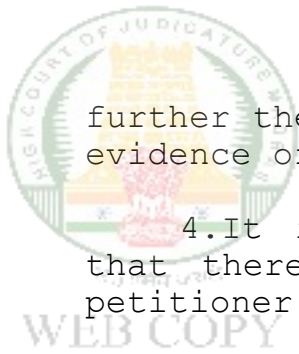
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the execution of sentence in CA.No.31 of 2011 dated 08.04.2019 on the file of the Mahalir Fast Track Court, Nagercoil, Kanyakumari District confirming the judgment of the Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District in STC.No.1918 of 2006 dated 15.02.2011, pending disposal of the criminal revision petition.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.G.CENIL, Advocate for the petitioner and of MR.S.M.A.JINNAH, Advocate on behalf of the Respondent, 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 Instrument Act, and sentenced to undergo simple imprisonment for a period of one year and to pay a compensation of Rs.5,000/- (Rupees Five thousand only) in default to undergo simple imprisonment for a period of three months in S.T.C.No.1918 of 2006, on the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District.

2. The learned Sessions Judge, Mahalir Fast Track Court, Nagercoil, Kanyakumari District, confirmed the conviction and sentence and dismissed the Criminal Appeal No.31 of 2011, dated 08.04.2019.

3.It is submitted by the learned counsel for the petitioner <https://hcs.ecdutn.gov.in/hcservice/> 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 No.I, Kuzhithurai, Kanyakumari District;

(ii) since the cheque amount is Rs.6,00,000/-, the petitioner is directed to deposit 20% of the same i.e., a sum of Rs.1,20,000/- (Rupees one lakh twenty thousand only) to the credit of S.T.C.No.1918 of 2006, on the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District, within a period of two weeks from the date of receipt of a copy of this order. On such deposit, the respondent is permitted to withdraw the deposited amount;

(iii) and on further condition that the petitioner shall appear before the said Court on daily at 10.30 a.m., pending revision.

sd/-
03/01/2020

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



TO

1 THE JUDGE,
MAHALIR FAST TRACK COURT,
NAGERCOIL, KANYAKUMARI DISTRICT.

2 THE JUDICIAL MAGISTRATE NO.I,
KUZHITHURAI, KANYAKUMARI DISTRICT.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI AT NAGERCOIL.

+1. C.C. to M/S.G.CENIL Advocate SR.No.184

ORDER

IN

CRL MP(MD) No.5246 of 2019

IN

CRL RC(MD) No.349 of 2019

Date :03/01/2020

PJL

JM/VR/SAR 4/06.01.2020/3P/5C