



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

Monday, the Fourteenth day of September Two Thousand Twenty

PRESENT

The Hon`ble Mrs.Justice R.THARANI

Crl.M.P. (MD) .Nos.3712 & 3713 of 2020
in
Crl.RC. (MD) .No.420 of 2020

RAJAMANICKAM

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

Vs

BALAMURUGAN @ BALU ... RESPONDENT/RESPONDENT/RESPONDENT/COMPLAINANT
IN BOTH THE PETITIONS

Prayer in CRL MP(MD). 3712/ 2020 :

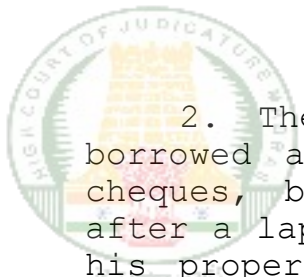
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence and release the petitioner on bail against the judgment passed in C.A.No.152 of 2018 dated 17/03/2020 on the file of the II Additional District and Sessions Judge, Trichy by confirming the judgment in S.T.C.No.197 of 2018 dated 23.11.2018 on the file of the learned Judicial Magistrate at Manapparai.

Prayer in CRL MP(MD). 3713/ 2020 :

To exempt the petitioner by appearing in C.A.No.152 of 2018 dated 17.03.2020 on the file of II Additional District and Sessions Judge, Trichy by confirming the judgement in S.T.C.No.197 of 2018 dated 23.11.2018 on the file of the learned Judicial Magistrate at Manapparai.

Order : These petitions coming on for orders upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments Mr.T.SENTHIL KUMAR, Advocate for the petitioner in both the petitions and of Mr.K.PRABHAKAR, Advocate on behalf of the Respondent in both the petitions, while admitting the Criminal Revision Case, the court made the following order:-

The petitioner filed the petition in Crl.M.P(MD)No.3712 of 2020, to suspend the sentence and to release the petitioner on bail against the judgment passed in C.A.No.152 of 2018, dated 17.03.2020 on the file of the II Additional District and Sessions Judge, Trichy confirming the judgment in S.T.C.No.197 of 2018, dated 23.11.2019 on the file of the learned Judicial Magistrate, Manapparai.



2. The case against the petitioner is that the petitioner borrowed a sum of Rs.13,00,000/- on 26.09.2016 and issued three cheques, but, the cheque was presented only on 12.02.2018, i.e. after a lapse of 1 1/2 years. Actually, the petitioner was selling his property on 29.06.2016 and there is no necessity for him to borrow any amount on that date. The petitioner want to examine witnesses to prove his case, but, the Magistrate dismissed the petition for examination of witnesses. Though the petitioner filed a revision petition, within 2 days, the Magistrate passed the judgment and convicted the petitioner. The first Appellate Court also without giving opportunity for the petitioner to put forth his case, passed a concurrent judgment. It is stated that there are sufficient points for arguments in the revision and prayed the sentence to be suspended.

3. On the side of the respondent, it is stated that the petitioner issued three cheques in the year 2016, along with a letter permitting the respondent to use the cheque post dated. Post dated cheques are also valid in law. The petitioner failed to enter into the box. He want to examine some third person as a witness and hence, this petition was dismissed by the Courts below. To get suspension of sentence, the petitioner may be directed to deposit at least 50% of the cheque amount.

4. It is seen that the respondent has no serious objection in allowing the suspension of sentence. The Only contention of the respondent is that the petitioner has to deposit 50 % of the cheque amount. On the side of the petitioner, it is stated that the petitioner is ready to deposit Rs.1,00,000/- to prove his bonafide.

5. Already interim suspension of sentence was passed by this Court, on 24.07.2020, enabling the petitioner to undergo treatment for coronavirus disease. In the above circumstances, this Court is inclined to allow this petition. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is ordered to be released on bail, 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 Judicial Magistrate at Manapparai, and on further condition that:

- (i) 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.
- (ii) the petitioner shall appear before the Trial Court as and when required for interrogation.
- (iii) the petitioner shall deposit a sum of Rs.3,00,000/- (Rupees Three Lakhs only) to the credit of S.T.C.No.197 of 2018, before the Judicial Magistrate at Manapparai,



(iv) On such deposit, the Judicial Magistrate at Manapparai, shall re-deposit the same Rs.3,00,000/- (Rupees Three Lakhs 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.420 of 2020.

6. The petitioner filed another petition in Crl.M.P.(MD)No.3713 of 2020, to exempt the petitioner from surrendering before the lower Court. At the time of granting interim suspension of sentence order, the petitioner was undergoing treatment for coronavirus disease. Now, there is no such situation to exempt the petitioner. Hence, the Exemption petition in Crl.M.P.(MD)No.3713 of 2020 is dismissed.

sd/-
14/09/2020

/ 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 II ADDITIONAL DISTRICT AND SESSIONS JUDGE, TRICHY.
2. THE JUDICIAL MAGISTRATE, MANAPPARAI.
3. DO THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
TIRUCHIRAPPALLI DISTRICT.

ORDER
IN
Crl.M.P.(MD).Nos.3712 & 3713 of 2020
in
Crl.RC.(MD).No.420 of 2020
Date :14/09/2020

Ls

<https://hcrvtce2009a.gov.in/icservices/2020/09/14/3712-3713-420>