



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

Wednesday, the Twenty Third day of September Two Thousand Twenty

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) Nos.4707 and 4708 of 2020
IN
CRL RC(MD) No.531 of 2020

KANDASAMY

... PETITIONER/PETITIONER
IN BOTH PETITIONS

Vs

BALAKRISHNAN

... RESPONDENT/RESPONDENT
IN BOTH PETITIONS

PRAYER IN CRL MP(MD)No.4707 of 2020 IN CRL RC(MD)No.531 of 2020:

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence passed by the Learned Judicial Magistrate Court No.II Kulithalai in S.T.C.No. 267 of 2016 dated 22.01.2018 confirmed by the Additional District court, Karur in Crl.A.No.16 of 2018 dated 20.02.2020, pending disposal of the main Revision Petition.

PRAYER IN CRL MP(MD)No.4708 of 2020 IN CRL RC(MD)No.531 of 2020:

To Exempt the petitioner from surrender before the learned Judicial Magistrate No.II Kulithalai in connection with the Judgement passed in Crl.A.No.16 of 2018 dated 20.02.2020 on the file of the Learned Additional District court, Karur, by confirming the order of conviction sentence passed by the learned Judicial Magistrate Court No.II, Kulithalai in S.T.C.No.267 of 2016 dated 22.01.2018.

Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of Mr.K.SIVABALAN, Advocate for the petitioner in both petitions, while admitting the Criminal Revision Petition., the court made the following order:-

It is seen that the petitioner has been convicted by the learned Judicial Magistrate No.II, Kulithalai, in S.T.C.No.267 of 2016 for the offence under Section 138 of Negotiable Instruments Act and was sentenced to undergo two years simple imprisonment and to pay a compensation of Rs. 9,00,000/- (Rupees Nine Lakhs only), to the complainant, in default, to undergo two months simple imprisonment, by its judgment dated 22.01.2018.



2. As against the said conviction and sentence, the petitioner has preferred an appeal in Crl.A.No.16 of 2018 before the Additional District Court, Karur. The first appellate Court has also confirmed the conviction and sentence, by its judgement dated 20.02.2020, aggrieved by the same, the petitioner has preferred a revision in Crl.R.C.No.531 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 wrongly convicted and sentenced the petitioner under Section 138 of NI Act for a period of two years, since the trial Court did not have the power to impose a punishment of two years in a "STC" case.

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.4707 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 No.II, Kulithalai, within a period of four weeks from the date of receipt of copy of this order;

(ii) the petitioner shall deposit a sum of Rs.3,00,000/- (Rupees Three Lakhs only) to the credit of S.T.C.No.267 of 2016, before the learned Judicial Magistrate No.II, Kulithalai, within a period of 4 weeks from the date of receipt of copy of this order. Depositing a sum of Rs.3,00,000/- and on his executing a bond for a sum of Rs.50,000/- (Rupees Fifty 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 Court No.II, Kulithalai;

(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 No.II, Kulithalai, 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.531 of 2020.

8. Accordingly, Crl.M.P.(MD)No.4708 of 2020 is dismissed.

sd/-
23/09/2020

/ 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 JUDICIAL MAGISTRATE NO II, KULITHALAI.
- 2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, KARUR DISTRICT.
- 3.THE ADDITIONAL DISTRICT JUDGE, KARUR.

ORDER IN
CRL MP(MD) Nos.4707 and 4708 of 2020
IN
CRL RC(MD) No.531 of 2020
Date :23/09/2020

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<https://hcservices.mca.gov.in/hcservices/>
IN/IN/CR. 1/20.09.2020/3P/4C