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Crl. R.C.(MD)No.510 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 30.09.2020
CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl. R.C.(MD)No.510 of 2020

and

Crl.M.P.(MD)No.4602 of 2020

Jeyakumari

.. Petitioner

Vs.

1.Rajan

2.The State of Tamil Naud,

Rep. by its Public Prosecutor,
Nagercoil.

.. Respondents

Prayer : This Revision Case is filed under Sections 397 r/w. Section 401 of Cr.P.C., to set aside the order passed by the learned Principal Sessions Judge, Kanyakumari District at Nagercoil, in Crl.M.P.No.3230 of 2020 in C.A.No.25 of 2020, dated 20.08.2020 in so far as the portion imposing a condition to the petitioner to deposit Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand only) before the learned Judicial Magistrate No.1, Kuzhithurai on or before 20.09.2020, to suspend the sentence imposed by the learned Judicial Magistrate No.1, Kuzhithurai in C.C.No.167 of 2017, dated 15.07.2020 and to allow this Criminal Revision.

For Petitioner : Mr.B.Brijesh Kishore

For Respondents : Mr.V.M.Balamohan Thampi
for R1

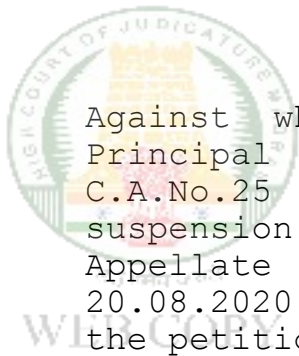
: Mr.K.Dinesh Babu
Additional Public Prosecutor
for R2

ORDER

This revision has been filed to set aside the order passed by the learned Principal Sessions Judge, Kanyakumari District at Nagercoil, in Crl.M.P.No.3230 of 2020 in C.A.No.25 of 2020, dated 20.08.2020 in so far as the portion imposing a condition to the petitioner to deposit Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand only) before the learned Judicial Magistrate No.1, Kuzhithurai on or before 20.09.2020 and to allow this Criminal Revision.

2. A case against the petitioner is that he borrowed a sum of Rs.8,50,000/- (Rupees Eight Lakhs Fifty Thousand only) from the first respondent and the case in C.C.No.167 of 2016 was registered against the petitioner before the Judicial Magistrate No.I, Kuzhithurai. The petitioner was convicted by the trial Court.

<https://hcservices.ecourts.gov.in/hcservices/>



Against which, the petitioner preferred an appeal before the Principal Sessions Judge, Kanyakumari District at Nagercoil, in C.A.No.25 of 2020. Along with the appeal, he filed a petition for suspension of sentence in Crl.M.P.No.3230 of 2020. The First Appellate Court passed an order for suspension of sentence on 20.08.2020 on certain conditions. Against one of the condition, the petitioner has preferred this revision.

3. On the side of the petitioner, it is stated that the First Appellate Court passed an order to deposit Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand only) before the Judicial Magistrate No.I, Kuzhithurai on or before 20.09.2020, as a condition for suspension of sentence and prayed the amount to be reduced.

4. The learned counsel for the petitioner relied on the Judgment of this Court passed in Crl.R.C.(MD)No.20 of 2010 [Jayakumar Vs. Benniskumar], dated 12.01.2010, is cited, where in, this Court ordered for a deposit of Rs.90,000/- (Rupees Ninety Thousand only) alone.

5. This Court has ordered for the deposit of RS.90,000/- (Rupees Ninety Thousand only), which is the cheque amount and this judgment is against the petitioner's claim.

6. The learned counsel for the petitioner relied on the another Judgment of this Court passed in Crl.R.C.(MD)Nos.932 and 933 of 2019 [M/s.Benson Tranquillity Owners Association Vs. T.Md.Moin], dated 23.10.2019, is cited, where in, this Court has directed the accused to pay 25% of the compensation amount.

7. On the side of the first respondent, it is stated that there is no necessity to reduce the amount and the petitioner may be directed to deposit entire compensation amount. He relied on the judgment of the Hon'ble Supreme Court in Criminal Appeal Nos.1936-1963 of 2019 [Surinder Singh Deswal @ Col.S.S. Deswal and others Vs. Virender Gandhi and another] is cited, where in, the Hon'ble Supreme Court has directed the appellants to deposit 25% of the compensation amount.

8. Heard the learned counsel on either side and perused the materials available on record.

9. The first case cited by the learned counsel for the petitioner is, in fact, against the case of the petitioner. In view of the submission made by both the counsel, this Court is inclined to modify the order.

10. This Criminal Revision Case is partly allowed and the petitioner is hereby directed to deposit a sum of Rs.2,00,000/- (Rupees Two Lakhs only) before the trial Court within a period of four weeks from the date of receipt of a copy of this order. Other



unaltered.
closed.

Consequently, connected Miscellaneous Petition is

Sd/-

Assistant Registrar ()

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// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Ls

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.1,
Kuzhithurai.
- 2.The Chief Judicial Magistrate,
Kanniyakumari at Nagercoil.
- 3.The Principal Sessions Judge,
Kanyakumari District at Nagercoil.
4. The Assistant Public Prosecutor,
Nagercoil.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.B. BRIJESH KISHORE, Advocate (SR-18873[F] dated 05/10/2020)

+1 CC to Mr.V.M. BALA MOHAN THAMPI, Advocate (SR-18874[F] dated 05/10/2020)

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VB (08.10.2020) 3P 8C