



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

Friday, the Eleventh day of December Two Thousand and Twenty

PRESENT

The Hon`ble Mrs.Justice R.THARANI

Crl.M.P.(MD)Nos.5427 and 5428 of 2020
in Crl.R.C.(MD) No.596 of 2020

J.GANESH KUMAR

... PETITIONER/ PETITIONER
IN BOTH THE PETITIONS

Vs

PALANIYAPPAN

... RESPONDENT/ RESPONDENT
IN BOTH THE PETITIONS

Prayer in CRL MP(MD) . 5427/ 2020 :

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence of Imprisonment imposed by the learned Principal Sessions Judge, Sivagangai in C.A.No.34 of 2014, dated 13.01.2020 confirmed by Judicial Magistrate, Fast Track Court at Magistrate Level, Kariakudi in C.C.No.218 of 2012 dated 12.06.2014, pending disposal of the said Criminal Revision.

Prayer in CRL MP(MD) . 5428/ 2020 :

To exempt me to surrender before the Judicial Magistrate, Fast Track Court at Magistrate Level, Karaikudi in C.C.No.218 of 2012 dated 12.06.2014 which is confirmed by the Judgment dated 13.01.2020 in C.A.No.34 of 2014 on the file of the learned Principal Sessions Judge, Sivagangai.

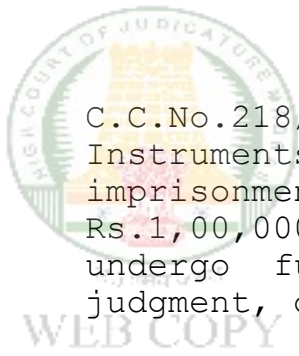
Prayer in Crl.R.C. (MD) No.596 of 2020:

To set aside the judgment passed by the Principal Sessions Judge, Sivagangai in C.A.No.34 of 2014 dated 13.01.2020 by confirming the sentence passed in Judicial Magistrate, Fast Track Court at Magistrate Level, Karaikudi in C.C.No.218 of 2012 dated 12.06.2014.

Order : These petitions coming up for orders on this day, upon perusing the petitions filed in support thereof and upon hearing the arguments of M/S.A.S.RAJESWARI, Advocate for the petitioner in both the petitions, While admitting the CRL.R.C., the court made the following order:-

It is seen that the petitioner was convicted by the Judicial Magistrate / Fast Track Court, Magistrate Level, Karaikudi, in

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C.C.No.218/2012 for the offence under Section 138 of Negotiable Instruments Act and was sentenced to undergo six months simple imprisonment and to pay the cheque amount of Rs.1,00,000/- (Rupees One Lakh only) as compensation, in default, to undergo further period of two months simple imprisonment, by judgment, dated 12.06.2014.

2. As against the said conviction and sentence, the petitioner has preferred an appeal in Crl.A.No.34 of 2014 before the Principal Sessions Judge, Sivagangai. The first appellate Court has also confirmed the conviction and sentence, by its judgment dated 13.01.2020. Aggrieved by which, the petitioner has preferred a revision case in Crl.R.C.(MD)No.596 of 2020. Along with the revision, he has filed the present application for suspension of sentence pending disposal of the said revision.

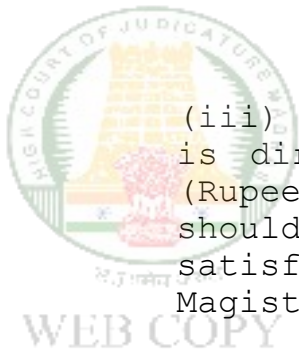
3. The learned counsel for the petitioner fairly conceded that the petitioner is ready and willing to deposit 25% of the cheque amount to the credit of C.C.No.218/2012, before the Judicial Magistrate / Fast Track Court, Magistrate Level, Karaikudi, without prejudice to his case.

4. The learned counsel for the petitioner has raised substantial points in the memorandum of revision, which require a detailed consideration by this Court. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner and considering the fact that the Criminal Revision Case 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.

5. Accordingly, Crl.M.P.(MD)No.5427 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, Magistrate Level, Karaikudi, within a period of two weeks from the date of receipt of copy of this order;

(ii) the petitioner shall deposit of sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the credit of C.C.No.218 of 2012, before the Judicial Magistrate / Fast Track Court, Magistrate Level, Karaikudi, within a period of three weeks from the date of receipt of copy of this order;



(iii) On deposit of the aforesaid amount, the petitioner is directed to execute 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 / Fast Track Court, Magistrate Level, Karaikudi.

(iv) 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 valid identity card to ensure their identity.

(v) 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 or until further orders.

(vi) On such deposit, the before the Judicial Magistrate / Fast Track Court, Magistrate Level, Karaikudi, shall re-deposit the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) in a Nationalised Bank, so that, the amount accrues interest and the same can be disbursed depending upon the outcome of the Criminal Revision Case in Crl. R.C. (MD)No.596 of 2020.

6. Accordingly, Crl.M.P.(MD)No.5428 of 2020 is dismissed.

sd/-
11/12/2020

/ TRUE COPY /

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

TO

- 1 THE PRINCIPAL SESSIONS JUDGE,
SIVAGANGAI
- 2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT AT MAGISTRATE LEVEL,
KARIAKUDI
- 3 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.

ORDER IN
Crl.M.P.(MD)Nos.5427 and 5428 of 2020
IN CRL RC(MD) No.596 of 2020
Date :11/12/2020

MS/PN/SAR-4/16.12.2020/3P.4C

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