



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

Tuesday, the First day of December Two Thousand and Twenty

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CrI.M.P.(MD)Nos.5545 and 5546 of 2020
in CrI.R.C.(MD) No.617 of 2020

PALANISAMY

... PETITIONER/ PETITIONER
in both the petitions

Vs

M.A.S.E.ZOOLFIGAR

... RESPONDENT/ RESPONDENT
in both the petitions

PRAYER IN CrI.M.P. (MD)No.5545 OF 2020:

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspension sentence of imprisonment imposed by the Judgment and order of conviction and sentence as well as award of compensation dated 11.07.2018 passed in S.T.C.No.59 of 2008 by the District Munsif Court Cum Judicial Magistrate Court, Ilaiyangudi the as confirmed by the judgment and order dated 28.09.2020 passed in C.A.No.84 of 2018 by the Additional District and Sessions Court, Sivagangai pending disposal of the above revision.

Prayer in CRL MP(MD) . 5546/ 2020 :

To exemption from surrendering himself to the judicial custody for sentence of imprisonment imposed by the judgment and order of conviction and sentence as well as award of compensation dated 11.07.2018 passed in S.T.C.No.59 of 2008 by the District Munsif Court Cum Judicial Magistrate Court, Ilaiyangudi the as confirmed by the judgment and order dated 28.09.2020 passed in C.A.No.84 of 2018 by the Additional District and Sessions Court, Sivagangai pending disposal of the above revision.

PRAYER in CrI.R.C. (MD) No.617 of 2020:

To call for the records and set aside the judgment and order dated 28.09.2020 passed in C.No.84 of 2018 by the Additional District and Sessions Court, Sivagangai confirming the judgment and order of conviction and sentence as well as award of compensation dated 11.07.2018 passed in S.T.C.No.59 of 2008 by the District Munsif Court cum Judicial Magistrate, Ilaiyangudi, allow the above revision petition.



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

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It is seen that the petitioner was convicted by the District Munsif cum Judicial Magistrate, Ilaiyangudi, in S.T.C.No.59 of 2008 for the offence under Section 138 of Negotiable Instruments Act and was sentenced to undergo three months simple imprisonment and to pay a compensation of Rs.3,03,000/- (Rupees Three Lakhs and Three Thousand only), by judgment, dated 11.07.2018.

2. As against the said conviction and sentence, the petitioner has preferred an appeal in C.A.No.84 of 2018 before the learned Additional District and Sessions Judge, Sivagangai. The first appellate Court has also confirmed the conviction and sentence, by its judgment dated 28.09.2020. Aggrieved by which, the petitioner has preferred a revision case in Crl.R.C.No.617 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 S.T.C.No.59 of 2008, before the District Munsif cum Judicial Magistrate, Ilaiyangudi, 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.5545 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 District Munsif cum Judicial Magistrate, Ilaiyangudi, within a period of three weeks from the date of receipt of copy of this order;

(ii) the petitioner shall deposit of sum of Rs.40,000/- (Rupees Forty Thousand only) to the credit of S.T.C.No.59

