



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

Monday, the Twenty Seventh day of January Two Thousand Twenty

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.11002 of 2019

IN

CRL RC(MD) No.918 of 2019

S.R.ELANGO VAN

... PETITIONER/ APPELLANT

Vs

MARIYAPPAN

... RESPONDENT/ RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the execution of substantive sentence imposed by the Judicial Magistrate Court (FTC), Uthamapalayam, in S.T.C.No.85 of 2016 dated 17.11.2016 which is confirmed by the judgment of Learned Additional District and Sessions Judge (FTC), Theni in C.A.No.52 of 2016 dated 23.07.2019 by releasing the petitioner on bail to the satisfaction of Judicial Magistrate Court (Fast Track Court), Uthamapalayam.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.B.RAJESH SARAVANAN, Advocate for the petitioner and of MR.S.SARAVANAKUMAR, Advocate on behalf of the Respondent, the court made the following order:-

The learned counsel for the petitioner submitted that the petitioner has been convicted by the trial Court for the alleged offence under Section 138 of Negotiable Instrument Act, and sentenced him to undergo simple imprisonment for a period of two months and to pay a fine of Rs.1,50,000/- as compensation in default to undergo simple imprisonment for a period of 30 days in S.T.C.No.85 of 2016, on the file of the learned Judicial Magistrate Court (Fast Track Court) Uttamapalayam.

2.The learned Additional District and Sessions Judge (FTC), Theni, confirmed the conviction and sentence and dismissed the Criminal Appeal No.52 of 2016, dated 23.07.2019.

3.It is submitted by the learned counsel for the petitioner that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the
<https://www.cemilab.com/india/india> prosecution witnesses.



4.It is submitted by the learned counsel for the respondent that there are enough materials available on record against the petitioner and prays for dismissal of this petition.

5.This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

6.The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal revision and further the criminal revision is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

7.Accordingly, the suspension of sentence petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the revision on the following conditions:-

(i) the petitioner is directed to be enlarged on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate Court (Fast Track Court) Uthamapalayam;

(ii) Since the cheque amount is Rs.1,50,000/- the petitioner is directed to deposit 20% of the same i.e a sum of Rs.30,000/- (Rupees Thirty thousand only) to the credit of S.T.C.No.85 of 2016, on the file of the learned Judicial Magistrate Court (Fast Track Court) Uttamapalayam, within a period of two weeks from the date of receipt of a copy of this order;

(iii) and on further condition that the petitioner shall appear before the said Court on daily at 10.30 a.m pending revision.

sd/-
27/01/2020

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

TO

1 THE JUDICIAL MAGISTRATE,
(FAST TRACK COURT), UTTAMAPALAYAM.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,

THE MURUGUDU DIVISIONAL OFFICE,
<https://hcservices.murugudu.org/>.



3 THE ADDITIONAL DISTRICT AND
SESSIONS JUDGE, (FAST TRACK COURT),
THENI.

+1 CC to M/s.B.RAJESH SARAIVANAN, Advocate (SR-1593[I] dated
28/01/2020)

ORDER
IN
CRL MP (MD) No.11002 of 2019
IN
CRL RC (MD) No.918 of 2019
Date :27/01/2020

dss
JM/VR/SAR 1/28.01.2020/3P/5C