



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

Thursday, the Thirtieth day of January Two Thousand Twenty

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) Nos.11361 & 11362 of 2019

IN

CRL RC(MD) No.962 of 2019

K.PITCHAI

... REVISION PETITIONER/
REVISION PETITIONER/
RESPONDENT/ RESPONDENT
IN BOTH THE PETITIONS

Vs

R.CHANDRA PRAKASH

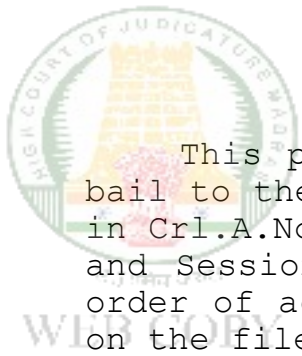
... RESPONDENT/ RESPONDENT/
APPELLANT/ COMPLAINANT
IN BOTH THE PETITIONS

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence and grant bail to the Revision Petitioner against the Judgment dated 18/11/2019 passed in Criminal Appeal No.94 of 2017 on the file of the Principal District and Sessions Judge, Virudhunagar at Sriviiliputhur cancelling the order of acquittal dated 03.05.2017 passed in S.T.C.No.735 of 2016 on the file of the Learned Judicial Magistrate, Sivakasi pending disposal of the Appeal on such terms and conditions as may be deemed fit and thus render justice.

Prayer in CRL MP(MD). 11362/ 2019 :

To Grant Exemption from surrender to the Revision petitioner in connection with the judgement dated 18/11/2019 passed in Criminal Appeal No.94 of 2017 on the file of the Principal District and Sessions Judge, Virudhunagar at Srivilliputhur cancelling the order of acquittal dated 03.05.2017 passed in S.T.C.No.735 of 2016 on the file of the Learned Judicial Magistrate, Sivakasi till the disposal of the instant Criminal Revision Petition and thus render justice.

Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of M/S.T.THIRUMURUGAN, Advocate for the petitioner in both the petitions and of MR.K.BAALASUNDHARAM, Advocate on behalf of the Respondent in both the petitions, the court made the following



This petition has been filed to suspend the sentence and grant bail to the petitioner against the judgment, dated 18.11.2019 passed in Crl.A.No.94 of 2017 on the file of the learned Principal District and Sessions Judge, Virudhunagar at Srivilliputhur, cancelling the order of acquittal, dated 03.05.2017 passed in S.T.C.No.735 of 2016 on the file of the learned Judicial Magistrate, Sivakasi.

2.It is seen that the petitioner has been acquitted in S.T.C.No.735 of 2016, on the file of the learned Judicial Magistrate, Sivakasi. In the appeal, the petitioner has been convicted by the learned Principal District and Sessions Judge, Virudhunagar at Srivilliputhur, for the offence under Section 138 of Negotiable Instruments Act, and sentenced him to undergo simple imprisonment for a period of one year and to pay the cheque amount for a sum of Rs.12,25,000/- (Rupees Twelve Lakhs and Twenty Five thousand only) within a period of six months as compensation in default to undergo simple imprisonment for a period of three months and set aside the order of the trial Court, by allowing the Criminal Appeal No.94 of 2017, dated 18.11.2019.

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 evidence of the prosecution witnesses.

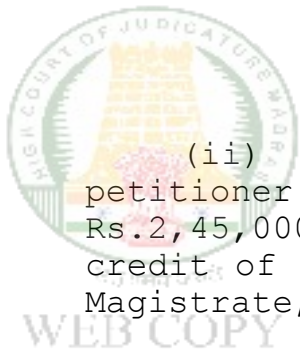
4.It is submitted by the learned counsel for the respondent that there are enough materials available on record against the petitioner and prays for dismissal of this petition.

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, Sivakasi;



(ii) Since the cheque amount is Rs.12,25,000/- the petitioner is directed to deposit 20% of the same i.e a sum of Rs.2,45,000/- (Rupees Two lakhs Forty five thousand only) to the credit of S.T.C.No.735 of 2016 on the file of the learned Judicial Magistrate, Sivakasi on or before 24.02.2020;

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

8.The petitioner is exempted from surrendering before the trial Court for the purpose of furnishing sureties.

sd/-
30/01/2020

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

TO

1 THE PRINCIPAL DISTRICT AND
SESSION JUDGE,
VIRUDHUNAGAR AT SRIVILLIPUTHUR.

2 THE JUDICIAL MAGISTRATE,
SIVAKASI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR AT SRIVILLIPUTHUR.

+1 CC to M/s.T.THIRUMURUGAN, Advocate (SR-1936[I] dated
30/01/2020)

+1. C.C. to M/S.K.BAALASUNDHARAM, Advocate SR.No. 2059

ORDER
IN
CRL MP(MD) Nos.11361
& 11362 of 2019
IN
CRL RC(MD) No.962 of 2019
Date :30/01/2020

VSD
JM/VR/SAR 4/31.01.2020/3P/6C