



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

Friday, the Twenty Sixth day of February Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

Crl.M.P. (MD) Nos.1661 and 1662 of 2021
in Crl.R.C. (MD) No.151 of 2021

MALATHI

... PETITIONER/ PETITIONER
in both the petitions

Vs

ALAGAPPAN

... RESPONDENT/ RESPONDENT
in both the petitions

PRAYER IN Crl.M.P. (MD) No.1661 of 2021:

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 passed in S.T.C No.447 of 2013 dated 16-10-2018 on the file of the Distirct Munsif cum Judicial magistrate Court, Thirupathur which is confirmed in C.A.No.122 of 2018 dated 06-10-2020 on the file of the Additional District and Sessions Court, Sivagangai pending disposal of the Criminal Revision.

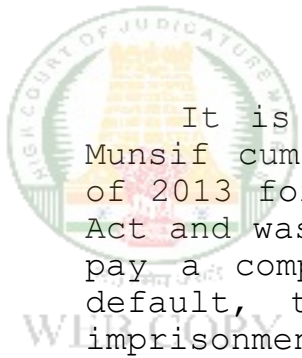
Prayer in CRL MP(MD) . 1662/ 2021 :

To grant EXEMPTION to the petitioner from surrendering in S.T.C No.447 of 2013 dated 16-10-2018 on the file of the District Munsif cum Judicial Magistrate Court, Thirupathur which is confirmed in C.A No.122 of 2018 dated 06-10-2020 on the file of the Additional District and Sessions Court, Sivagangai pending disposal of the Criminal Revision.

Prayer in Crl.R.C. (MD) No.151 of 2021:

To call for the records and set aside the order passed in C.A No.122 of 2018 dated 06-10-2020 on the file of the Additional District and Sessions Court, Sivagangai confirming the order passed in S.T.C No.447 of 2013 dated 16-10-2018 on the file of the Distirct Munsif cum Judicial magistrate Court, Thirupathur by allowing this Revision.

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.V.S.KISHOK KUMAR, Advocate for the petitioner in both the petitions, While admitting the Criminal Revision, the court made the following order:-



It is seen that the petitioner was convicted by the District Munsif cum Judicial Magistrate Court, Thirupathur, in S.T.C.No.447 of 2013 for the offence under Section 138 of Negotiable Instruments Act and was sentenced to undergo one year simple imprisonment and to pay a compensation of Rs.2,00,000/- (Rupees Two Lakhs only), in default, to undergo a further period of three months simple imprisonment, by judgment, dated 16.10.2018.

2. As against the said conviction and sentence, the petitioner has preferred an appeal in C.A.No.122 of 2018 before the learned Additional District and Sessions Court, Sivagangai. The first appellate Court has also confirmed the conviction and sentence, by its judgment dated 06.10.2020. Aggrieved by which, the petitioner has preferred a revision case in Crl.R.C.(MD)No.151 of 2021. Along with the revision, he has filed the present application for suspension of sentence pending disposal of the said revision.

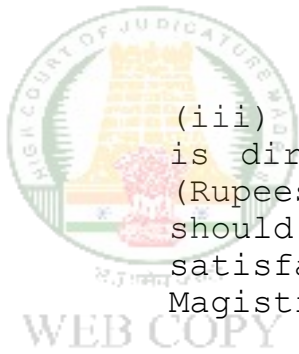
3. The learned counsel for the petitioner fairly conceded that the petitioner is ready and willing to deposit 25% of the cheque amount to the credit of S.T.C.No.447 of 2013, before the District Munsif cum Judicial Magistrate Court, Thirupathur, without prejudice to his case.

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.1661 of 2021 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 Court, Thirupathur, within a period of one month from the date of receipt of copy of this order;

(ii) the petitioner shall deposit of sum of Rs.50,000/- (Rupees Fifty Thousand only) to the credit of S.T.C.No.447 of 2013, before the District Munsif cum Judicial Magistrate Court, Thirupathur, within a period of one month 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 District Munsif cum Judicial Magistrate Court, Thirupathur.

(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 District Munsif cum Judicial Magistrate Court, Thirupathur, shall re-deposit the sum of Rs.50,000/- (Rupees Fifty 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.151 of 2021.

6. Accordingly, Crl.M.P.(MD)No.1662 of 2021 is dismissed.

sd/-
26/02/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, SIVAGANGAI
2 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE, THIRUPATHUR.
3 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.

+1CC TO Mr.V.S.KISHOK KUMAR, Advocate, SR NO.1607

ORDER IN
Crl.M.P.(MD)Nos.1661 and 1662 of 2021
in
Crl.R.C.(MD) No.151 of 2021
Date :26/02/2021

sjj

<https://hmcvtse.org.in/Services/15/15/2021/3P.5C>