



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

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

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) Nos.1103 and 1101 of 2021
in
CRL RC(MD)No.89 of 2021

M.AMARNATH

... PETITIONER/APPELLANT/SOLE ACCUSED
IN BOTH PETITIONS

Vs

C.DHARMAR

... RESPONDENT/RESPONDENT/ COMPLAINANT
IN BOTH PETITIONS

PRAYER IN CRL MP(MD)No.1103 of 2021 in CRL RC(MD)No.89 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 judgment delivered by the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court)Theni,in C.A.No.42 of 2019 by judgment dated 08.01.2021 while confirming the conviction and sentence imposed by the learned Judicial Magistrate, Fast Track Court(M.L), Theni in S.T.C.No.8 of 2017 vide judgment dated 23.07.2019 pending disposal of the main Criminal Revision Petition.

PRAYER IN CRL MP(MD)No.1101 of 2021 in CRL RC(MD)No.89 of 2021:

To exempt the petitioner from surrendering pursuant to the judgment passed by the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court) Theni,in C.A.No.42 of 2019 by judgment dated 08.01.2021 while confirming the conviction and sentence imposed by the learned Judicial Magistrate, Fast Track Court(M.L), Theni in S.T.C.No.8 of 2017 vide judgment dated 23.07.2019 so as to move the petition for suspension of sentence as against the said verdicts pending the disposal of the main Criminal Revision Petition.

PRAYER IN CRL RC(MD)No.89 of 2021:

Pleased to call for the entire records pertaining to the judgment delivered by the learned Sessions Judge, Mahalir Neethimandram,(Fast Track Mahila Court) Theni, in C.A.No.42 of 2019 by judgment dated 08.01.2021 while confirming the conviction and sentence imposed by the learned Judicial Magistrate, Fast Track Court(M.L), Theni in S.T.C.No.8 of 2017 vide judgment dated 23.07.2019 and set aside the same and consequently acquit the petitioner from the aforesaid case.



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.R.ANAND, Advocate for the petitioner in both petitions, while admitting the Criminal Revision Case, the court made the following order:-

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It is seen that the petitioner was convicted by the Judicial Magistrate, Fast Track Court at Magistrate Level, Theni, in S.T.C.No.8 of 2017 for the offences under Section 138 of Negotiable Instruments Act as per Section 255(2) of Cr.P.C., and was sentenced to undergo eight months simple imprisonment and to pay a compensation of Rs.4,00,000/- (Rupees Four Lakhs only), to the complainant under Section 357(3) of Cr.P.C., with interest at the rate of 9 % p.a., within a period of one month, in default, to undergo a further period of two months simple imprisonment, by judgment, dated 23.07.2019.

2. As against the said conviction and sentence, the petitioner has preferred an appeal in C.A.No.42 of 2019 before the learned Sessions Judge, Mahalir Neethimandram, (Fast Track Court), Theni. The first appellate Court has also confirmed the conviction and sentence, by its judgment dated 07.02.2018. Aggrieved by which, the petitioner has preferred a revision case in Crl.R.C.No.609 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 has already deposited 25% of the cheque amount to the credit of S.T.C.No.8 of 2017, before the Judicial Magistrate, Fast Track Court at Magistrate Level, Theni, 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. It is seen that the petitioner has already deposited 25% of the cheque amount to the credit of S.T.C.No.8 of 2017, before the Judicial Magistrate, Fast Track Court at Magistrate Level, Theni, while granting suspension of sentence to the petitioner.

6. Accordingly, Crl.M.P.(MD)No.1103 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

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(ii) 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 at Magistrate Level, Theni.

(iv) 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.

sd/-
12/02/2021

/ /2021

TO

1. THE SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM (FAST TRACK MAHILA COURT), THENI.
2. THE JUDICIAL MAGISTRATE,
FAST TRACK COURT AT MAGISTRATE LEVEL, THENI.
3. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, THENI DISTRICT.

+1. C.C. to Mr.R.ANAND Advocate SR.No.1068

ORDER
IN
CRL MP(MD) Nos.1103 and 1101
of 2021 in
CRL RC(MD)No.89 of 2021
Date :12/02/2021

SJI