



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

Thursday, the First day of April Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) Nos.2885 and 2886 of 2021
in
CRL RC(MD)No.291 of 2021

D.SHANMUGASUNDARAM

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

Vs

R.KASTHURI BAI

... RESPONDENT/RESPONDENT/
RESPONDENT/COMPLAINANT
IN BOTH PETITIONS

PRAYER IN CRL MP(MD)No.2885 of 2021 IN CRL RC(MD)No.291 of 2021:

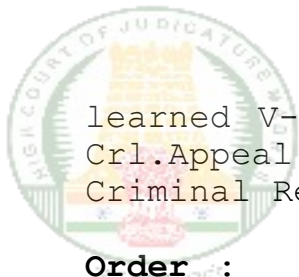
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge the petitioner on bail by suspending the sentence imposed upon by the Learned V-Additional District and Sessions Judge, Madurai, made in Crl.A. No.111 of 2019 by judgment dated 16/12/2020 as confirmed the judgment of the trial court by the learned Judicial Magistrate No.2, (FTC level) Madurai in S.T.C.No.32 of 2013 by its order dated 16.09.2019, to undergo 6 months S.I for the offence under section 138 of the NI Act, pending disposal of the Criminal Revision Case.

PRAYER IN CRL MP(MD)No.2886 of 2021 IN CRL RC(MD)No.291 of 2021:

To order for exemption to surrender the petitioner before the Trial court viz., the learned Judicial Magistrate No.2, (FTC Level) Madurai in S.T.C.No.32 of 2013 by its order dated 16/09/2019, and the same was confirmed by the learned V Additional District and Sessions Judge, Madurai, made in Crl.Appeal No.111 of 2019 by judgment dated 16.12.2020, pending disposal of the Criminal Revision Case.

PRAYER IN CRL RC(MD)No.291 of 2021:

Pleased to set aside the conviction and sentence passed by the learned Judicial Magistrate No.2, (FTC Level) Madurai in S.T.C.No.32 of 2013 dated 16.09.2019 convicting the petitioner u/s.138 of the Negotiable Instruments Act to undergo 6 months S.I. And to pay a compensation of Rs.5,00,000/-to the complainant u/s 357 of Crl.P.C within 2 months from the date of the judgment as confirmed by the



learned V-Additional District and Sessions Judge, Madurai, made in Crl.Appeal No.111 of 2019 by judgment dated 16.12.2020 and allow the Criminal Revision 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.S.HAMEED ISMAIL, Advocate for the petitioner in both petitions, while admitting the Criminal Revision Case, the court made the following order:-

It is seen that the petitioner was convicted by the Judicial Magistrate No.II, (Fast Track Court at Magistrate Level), Madurai, in S.T.C.No.32 of 2013 for the offence under Section 138 of Negotiable Instruments Act and was sentenced to undergo six months simple imprisonment and to pay a compensation of Rs.5,00,000/- (Rupees Five Lakhs only), by the judgment, dated 16.09.2019.

2. As against the said conviction and sentence, the petitioner has preferred an appeal in Crl.A.No.111 of 2019 before the learned V Additional District and Sessions Judge, Madurai. The first appellate Court has also confirmed the conviction and sentence, by its judgment dated 16.12.2020. Aggrieved by which, the petitioner has preferred a revision case in Crl.R.C.(MD)No.291 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.32 of 2013, before the Judicial Magistrate No.II, (Fast Track Court at Magistrate Level), Madurai, 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.2885 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

<https://hcservices.ecourts.gov.in/hcservices/>



surrender before the Judicial Magistrate No.II, Fast Track Court at Magistrate Level, Madurai, within a period of six weeks from the date of receipt of copy of this order;

(ii) the petitioner shall deposit of sum of Rs.1,25,000/- (Rupees One Lakh Twenty Five Thousand only) to the credit of S.T.C.No.32 of 2013, before the Judicial Magistrate No.II, Fast Track Court at Magistrate Level, Madurai, within a period of six weeks 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 Judicial Magistrate No.II, Fast Track Court at Magistrate Level, Madurai.

(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.

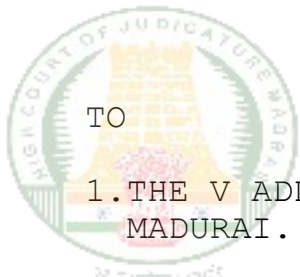
(vi) On such deposit, the before the Judicial Magistrate No.II, Fast Track Court at Magistrate Level, Madurai, shall re-deposit the sum of Rs.1,25,000/- (Rupees One Lakh Twenty Five Thousand only) in a Nationalised Bank, so that, the amount accrues interest and the same can be disbursed depending upon the outcome of the Criminal Revision Case in Crl. R.C.(MD)No.291 of 2021.

6. Accordingly, Crl.M.P.(MD)No.2095 of 2021 is dismissed.

sd/-
01/04/2021

/ TRUE COPY /

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



TO

1.THE V ADDITIONAL DISTRICT AND SESSIONS JUDGE,
MADURAI.

2.THE JUDICIAL MAGISTRATE No.II,
(FAST TRACK COURT AT MAGISTRATE LEVEL), MADURAI.

3.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.

+1 CC to Mr.S.HAMEED ISMAIL, Advocate (SR-2864[I] dated 01/04/2021

ORDER

IN

CRL MP(MD) Nos.2885 and
2886 of 2021 in

CRL RC(MD)No.291 of 2021

Date :01/04/2021

LS

TK/JC/SAR.2/08.04.2021/4P/5C