



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

Monday, the Fourteenth day of June Two Thousand and Twenty One

PRESENT

The Hon'ble Mrs. Justice T. KRISHNAVALLI

CRL MP (MD) No.3812 of 2021

IN

CRL RC (MD) No.376 of 2021

A.SENTHIL

... PETITIONER/PETITIONER

Vs

N.ASHOK KUMAR

... RESPONDENT/RESPONDENT

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 imposed on him by the Additional District and Sessions Court (FTC), Theni in made in C.A.No.72 of 2018 dated 27/09/2019 by confirming the judgment dated 24/05/2017 made in STC No.15 of 2016 on the file of the Judicial Magistrate, (FTC Magistrate Level), Uthamapalayam and enlarge the petitioner/accused on bail pending disposal of the Criminal Revision Petition.

Prayer in CRL RC (MD) No.376 of 2021:

To call for the entire records relating to the Judgment dated 27.09.2019 made in C.A.No.72 of 2018 on the file of the Additional District and Sessions Judge (FTC), Theni by confirming the Judgment dated 24.05.2017 made in S.T.C.No.15 of 2016 on the file of the Judicial Magistrate, (FTC Magistrate Level), Uthamapalayam and set aside the same by allowing the present Criminal Revision Petition and to acquit the petitioner.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.SENGUTTUARASAN.P., Advocate for the petitioner and of Mr.P.SANTHOSH KUMAR, Advocate for 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 compensation of Rs.2,00,000/- (Rupees Two lakh only) to the complainant, in default to undergo simple imprisonment for a period of one month in S.T.C.No.15 of 2016, on the file of the learned Judicial Magistrate (FTC Magistrate Level), Uthamapalayam.



2.The learned Additional District and Sessions Judge (FTC), Theni, confirmed the conviction and sentence and dismissed the Criminal Appeal No.72 of 2018, dated 27.09.2019.

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, Fast Track Court at Magistrate Level, Uthamapalayam.

(ii) the petitioner is directed to deposit a sum of Rs.1,00,000/- (Rupees One lakh only) to the credit of S.T.C.No.9 of 2016, on the file of the learned Judicial Magistrate (FTC Magistrate Level), Uthamapalayam, within a period of three weeks from the date of receipt of a copy of this order;

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

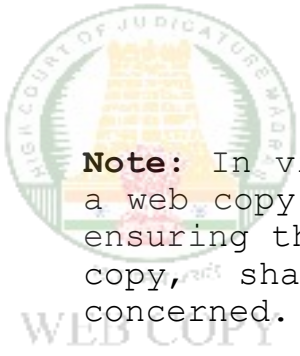
sd/-

14/06/2021

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



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE ADDITIONAL DISTRICT AND SESSIONS JUDGE (FTC), THENI.
2. THE JUDICIAL MAGISTRATE, (FTC MAGISTRATE LEVEL),
UTHAMAPALAYAM, THENI DISTRICT.
3. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.

ORDER

IN

CRL MP(MD) No.3812 of 2021 IN

CRL RC(MD)No.376 of 2021

Date :14/06/2021

VSD

TE/VR/SAR-II : 15/06/2021 : 3P/4C