



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

Wednesday, the Twenty Fourth day of November Two Thousand and
Twenty One

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PRESENT

The Hon`ble Mrs.Justice R.THARANI

Crl.M.P.(MD)Nos.8873 and 8874 of 2021
in
Crl.R.C.(MD) No.756 of 2021

ASIR YUVARAJA

... PETITIONER/ REVISION PETITIONER
in both the petitions

Vs

ESAKKI KAMBAR

... RESPONDENT/ RESPONDENT
in both the petitions

PRAYER IN Crl.M.P.(MD)No.8873 of 2021:

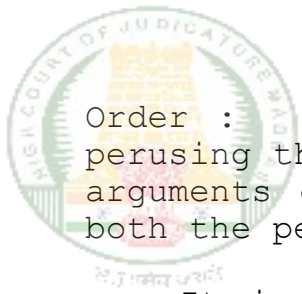
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the Sentence imposed by the learned 1st Additional Sessions judge, Tirunelveli in Crl.A.No.27 of 2018 dated 24.08.2021 by confirming the judgment passed in S.T.C.No.638 of 2015 dated 05.01.2018 on the file of the Learned District Munsif Cum Judicial Magistrate, Cheranmahadevi and enlarge the petitioner on bail pending disposal of the above Criminal Revision.

Prayer in CRL MP(MD) . 8874/ 2021 :

To Exempt the surrender before the courts below in Crl.A.No.27 of 2018 dated 24.08.2021 on the file of the Learned 1st Additional Sessions judge, Tirunelveli by confirming the judgment passed in S.T.C.No.638 of 2015 dated 05.01.2018 on the file of the Learned District Munsif Cum Judicial Magistrate, Cheranmahadevi pending disposal of the Criminal Revision.

Prayer in Crl.R.C.(MD) No.756 of 2021:

To call for the records pertaining to the judgment in Criminal Appeal No.27 of 2018 dated 24.08.2021 on the file of the Learned 1st Additional Sessions Judge, Tirunelveli by confirming the judgment passed in S.T.C.No.638 of 2015 dated 05.01.2018 on the file of the Learned District Munsif Cum Judicial Magistrate, Cheranmahadevi and set aside the same by allowing the above Criminal 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.D.S.HAROON RASHEED, Advocate for the petitioner in both the petitions, the court made the following order:-

It is seen that the petitioner was convicted by the District Munsif Cum Judicial Magistrate, Cheranmahadevi, in S.T.C.No.638 of 2015 for the offence under Section 138 of Negotiable Instruments Act and was sentenced to undergo six months rigorous imprisonment and to pay the cheque amount of Rs.1,00,000/- (Rupees One Lakh only) as compensation, in default, to undergo further period of one month simple imprisonment, by judgment, dated 05.01.2018.

2. As against the said conviction and sentence, the petitioner has preferred an appeal in C.A.No.27 of 2018 before the I-Additional Sessions Judge, Tirunelveli. The first appellate Court has also confirmed the conviction and sentence, by its judgment dated 24.08.2021. Aggrieved by which, the petitioner has preferred a revision case in Crl.R.C.(MD)No.756 of 2021. Along with the revision, he has filed the present applications (i) for suspension of sentence pending disposal of the said revision (ii) for exempting the petitioner to surrender before the trial Court.

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.638 of 2015, before the District Munsif Cum Judicial Magistrate, Cheranmahadevi, 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.8873 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 shall deposit of sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) to the credit of S.T.C.No.638 of 2015, before the District Munsif Cum Judicial Magistrate, Cheranmahadevi, within a period of one month from today (24.11.2021);



(ii) 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, Cheranmahadevi.

(iii) 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.

(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.

(v) On such deposit, the learned District Munsif Cum Judicial Magistrate, Cheranmahadevi, shall re-deposit the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) in any 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.756 of 2021.

(vi) If the aforesaid condition is not complied within the prescribed time limit, the order of suspension of sentence stands automatically cancelled.

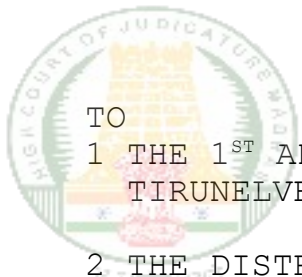
(vii) the petitioner is not exempted from surrendering before the trial Court and the petitioner is directed to surrender before the District Munsif Cum Judicial Magistrate, Cheranmahadevi, within a period of two weeks from the date of receipt of copy of this order;

6. Accordingly, Crl.M.P.(MD)No.8874 of 2021 is dismissed.

sd/-
24/11/2021

/ TRUE COPY /

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



TO

1 THE 1ST ADDITIONAL SESSIONS JUDGE,
TIRUNELVELI.

2 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
CHERANMAHADEVI.

3 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

ORDER IN

Crl.M.P.(MD)Nos.8873 and 8874 of 2021
in Crl.R.C.(MD) No.756 of 2021

Date :24/11/2021

csm/mga

MS/VR/SAR-4/25.11.2021/4P.4C