



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

Monday, the Fourth day of January Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.7891 of 2020
IN
CRL RC(MD) No.739 of 2020

S.SARBUDEEN

... PETITIONER/PETITIONER

Vs

V.MAYANDI

... RESPONDENT/RESPONDENT

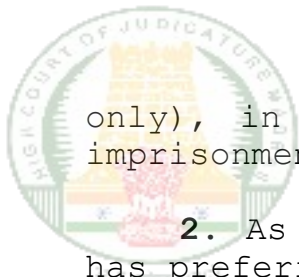
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to stay the Judgment dated 24/09/2020 made in C.A.NO.38 of 2019 on the file of the Learned Additional District and Sessions Judge, Theni modifying the conviction and sentence imposed by the Learned Judicial Magistrate Fast Track, Uthamapalayam in C.C.No.53 of 2018, dated 15.07.2019.

PRAYER IN CRL RC(MD) No.739 of 2020:

Pleased to call for the records pertaining to the Judgment dated 24.09.2020 made in C.A.No.38 of 2019 on the file of the Learned Additional District and Sessions Judge, Theni modifying the conviction and sentence imposed by the Learned Judicial Magistrate, Fast Track, Uthamapalayam in C.C.No.53 of 2018, dated 15.07.2019 whereby " the petitioner has been directed to pay a compensation of Rs.2,50,000/- being the cheque amount with 6% interest p.a., from the date of issuance of cheque in default the petitioner in directed to suffer 6 months Simple Imprisonment and the time for payment of compensation with interest 3 months" and set aside the same by allowing the above Criminal Revision Petition.

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.K.M.ARUNPRASATH, Advocate for the petitioner, while admitting the Criminal Revision Case, the court made the following order:-

It is seen that the petitioner was convicted by the Judicial Magistrate / Fast Track Court, Magistrate Level, Uthamapalayam, in C.C.No.53/2018 for the offence under Section 138 of Negotiable Instruments Act and was sentenced to undergo six months rigorous imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand



only), in default, to undergo further period of one month simple imprisonment, by judgment, dated 15.07.2019.

2. As against the said conviction and sentence, the petitioner has preferred an appeal in Crl.A.No.38 of 2019 before the Additional District and Sessions Judge, Theni. The first appellate Court has partly allowed the appeal, by its judgment dated 24.09.2020 and directed the appellant to pay a compensation of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand only) with 6% interest p.a. from the date of issuance of cheque, in default, the appellant is directed to suffer 6 months simple imprisonment. Aggrieved by which, the petitioner has preferred a revision case in Crl.R.C.(MD)No.739 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 is ready and willing to deposit 25% of the cheque amount to the credit of C.C.No.53/2018, before the Judicial Magistrate / Fast Track Court, Magistrate Level, Uthamapalayam, 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, this petition 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.50,000/- (Rupees Fifty Thousand only) to the credit of C.C.No.53/2018, before the Judicial Magistrate / Fast Track Court, Magistrate Level, Uthamapalayam, within a period of one month from the date of receipt of copy of this order;

(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 Judicial Magistrate / Fast Track Court, Magistrate Level, Uthamapalayam



(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.

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(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.

(vi) On such deposit, the Judicial Magistrate / Fast Track Court, Magistrate Level, Uthamapalayam, 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.739 of 2020.

sd/-

04/01/2021

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/ /2021

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

TO

1.THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, THENI.

2.THE JUDICIAL MAGISTRATE/
FAST TRACK COURT, MAGISTRATE LEVEL,
UTHAMAPALAYAM.

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

COPY TO:

THE SECTION OFFICER, CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.K.M.ARUN PRASATH, Advocate (SR-24[I] dated 05/01/2021)

ORDER

IN

CRL MP(MD) No.7891 of 2020

IN

CRL RC(MD) No.739 of 2020

Date :04/01/2021

LS

TK/PN/SAR.2/05.01.2021/3P/6C

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