



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

Tuesday, the Seventh day of December Two Thousand and Twenty One

PRESENT

The Hon'ble Mrs.Justice R.THARANI

CRL.M.P. (MD) NOS.10742 AND 10743 OF 2021
IN
CRL.R.C. (MD) NO.900 OF 2021

B.VAIRAMANI

... PETITIONER/PETITIONER

Vs

S.GUNASEKARAN

... 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 by the judgment made in C.A.No. 19 of 2021 on the file of the Sessions Judge, Mahalir Neethimandram (FTC) Theni, dt. 17.11.2021 confirming the conviction and sentence imposed by the Learned Judicial Magistrate, Fast Track Court (ML) at Theni made in STC No.2 of 2019 dated 25.1.2021 pending disposal of the above Criminal Revision Petition.

Prayer in CRL MP(MD) No.10743/2021 :

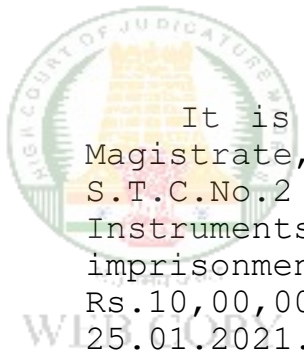
To exempt the petitioner from surrendering himself before the Sessions Judge, Mahalir Neethimandram (Fast Track Court) Theni, dated 17.11.2021 in CA No.19 of 2021 confirming the conviction and sentence imposed by the Learned Judicial Magistrate, Fast Track Court (ML) Theni in connection with the case in STC No.2 of 2019 dated 25.1.2021 pending disposal of the above Criminal Revision Petition.

Prayer in CRL RC(MD) No.900/2021 :

To call for the records and set aside the order passed in C.A.No. 19 of 2021 on the file of the Sessions Judge, Mahalir Neethimandram (Fast Track Court) Theni, dated 17.11.2021 confirming the conviction and sentence imposed by the Learned Judicial Magistrate, Fast Track Court (ML) Theni made in STC No.2 of 2019 at Theni, dated 25.1.2021 by allowing this 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 M/S. GUHAN.K., Advocate for the petitioner, the court made the following order:-

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



It is seen that the petitioner was convicted by the Judicial Magistrate, (Fast Track Court at Magistrate Level), Theni, in S.T.C.No.2 of 2019 for the offence under Section 138 of Negotiable Instruments Act and was sentenced to undergo one year simple imprisonment and to pay a compensation of Rs.10,00,000/- (Rupees Ten Lakhs only), by the judgment, dated 25.01.2021.

2. As against the said conviction and sentence, the petitioner has preferred an appeal in Crl.A.No.19 of 2021 before the Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Theni. The first appellate Court has also confirmed the conviction and sentence, by its judgment dated 17.11.2021. Aggrieved by which, the petitioner has preferred a revision case in Crl.R.C.(MD)No.900 of 2021. Along with the revision, he has filed the present application for suspension of sentence pending disposal of the said revision.

3. On the side of the petitioner, it is stated that the petitioner has already deposited 20% of the compensation amount before the trial Court, at the time of getting suspension of sentence and he is ready and willing to deposit 25% of the cheque amount to the credit of S.T.C.No.2 of 2019, before the Judicial Magistrate, (Fast Track Court at Magistrate Level), Theni, after deducting 20% of the amount, 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.10742 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 surrender before the Judicial Magistrate, Fast Track Court at Magistrate Level, Theni, within a period of four weeks from the date of receipt of copy of this order;

(ii) the petitioner shall deposit 25% of the compensation amount (ie.Rs.2,50,000/-), after deducting the amount already deposited by the petitioner, to the credit of S.T.C.No.2 of 2019, before the Judicial Magistrate, Fast Track Court at Magistrate Level, Theni, within a period of four weeks from the date of receipt of copy of



(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, Fast Track Court at Magistrate Level, Theni.

(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, Fast Track Court at Magistrate Level, Theni, shall re-deposit the sum of Rs.2,50,000/- (Rupees Two Lakhs 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.900 of 2021.

6. Accordingly, Crl.M.P.(MD) No.10743 of 2021 is dismissed.

sd/-
07/12/2021

/ TRUE COPY /

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

TO

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

+1 CC to M/s.K.GUHAN, Advocate (SR-8909[I] dated 07/12/2021)

ORDER
IN
Crl.M.P.(MD) Nos.10742 and
10743 of 2021 in
Crl.R.C.(MD) No.900 of 2021
Date :07/12/2021

USK/PN/SAR-IV/ (09.12.2021) 3P-5C