



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

Thursday, the Sixteenth day of December Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.11312 and 11313 of 2021
IN
CRL RC.(MD)No.941 of 2021

P.RAJASAMUEL

... PETITIONER/PETITIONER
IN BOTH PETITIONS

Vs

ESAAKKI

... RESPONDENT/RESPONDENT
IN BOTH PETITIONS

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 III Additional Sessions Judge, Tirunelveli in CA.No.125 of 2018 dated 25.11.2021 and the confirming Judgment passed by the Learned District Munsif cum Judicial Magistrate, Cheranmahadevi in STC.No.2255 of 2011 dated 07.09.2018 pending disposal of the above Criminal Revision Petition.

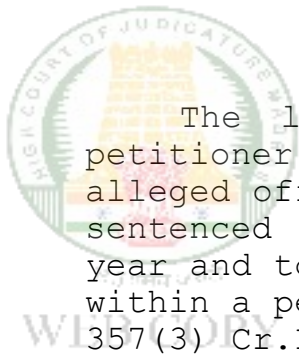
Prayer in CRL MP(MD) . 11313/ 2021 :

To exempt the Petitioner from surrendering before the trial court pursuant to the Judgment and sentence passed by the Learned III Additional Sessions Judge, Tirunelveli in CA.No.125 of 2018 dated 25.11.2021 and the confirming Judgment passed by District Munsif cum Judicial Magistrate, Cheranmahadevi in STC.No.2255 of 2011 dated 07.09.2018 pending disposal of the above Criminal Revision Petition.

PRAYER IN CRL RC(MD)No.941 of 2021:

To call for records relating to Judgment passed by the Learned III Additional Sessions Judge, Tirunelveli in C.A.No.125 of 2018 dated 25.11.2021 and the confirming Judgment passed by the Learned District Munsif cum Judicial Magistrate, Cheranmahadevi in S.T.C.No.2255 of 2011 dated 07.09.2018 and set aside the same.

Order : These petitions coming up for orders on this day, upon perusing the petitions filed in support thereof and upon hearing the arguments of M/S.N.DILIP KUMAR, Advocate for the petitioner in both Petitions, While admitting the CRL.RC, the court made the following order:-



The learned counsel for the petitioner submitted that the petitioner has been convicted by the learned trial judge, for the alleged offence under Section 138 of Negotiable Instruments Act, and sentenced him to undergo rigorous imprisonment for a period of 1 year and to pay a compensation of Rs.2,00,000/-, to the complainant within a period of one month from the date of judgment under Section 357(3) Cr.P.C in default to undergo simple imprisonment for a period of one month, in S.T.C.No.2255 of 2011 on the file of the learned Judicial Magistrate, Cheranmahadevi.

2.The learned III Additional District & Sessions Judge, Tirunelveli, confirmed the conviction and sentence and dismissed the Criminal Appeal No.125 of 2018, dated 25.11.2021.

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. As per the order of the learned learned Judicial Magistrate, Cheranmahadevi, Rs.1,00,000/- was already paid before the Trial Court.

4.It is submitted by the learned Government Advocate (Crl.side) that there are enough materials available on record against the petitioner as per the evidence adduced by the prosecution and there is no infirmity in the prosecution case 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 and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute 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, Cheranmahadevi, and on further condition that the petitioner shall appear before the respondent police once in a week i.e., on the first working day of every week at 10.30 a.m. pending revision.



8.The petitioner is exempted from surrendering before the trial Court for the purpose of furnishing sureties.

sd/-

16/12/2021

/ TRUE COPY /

WEB COPY

21/12/2021

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

TO

- 1 THE III ADDITIONAL SESSIONS JUDGE, TIRUNELVELI.
- 2 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
CHERANMAHADEVI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

+2. C.C. to M/S.N.DILIP KUMAR Advocate SR.No.9417, 9418

ORDER

IN

CRL MP(MD) No.11312 and
11313 of 2021

IN

CRL RC.(MD)No.941 of 2021
Date :16/12/2021

SA/PN/SAR.2/21.12.2021/3P/6C