



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

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

WEB COPY

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.11836 & 11838 of 2021
in
CRL RC(MD) No.970 of 2021

SUBHAN

... PETITIONER/PETITIONER

Vs

VANAJA

... RESPONDENT/RESPONDENT

PRAYER IN CRL MP(MD) No.11836 of 2021:

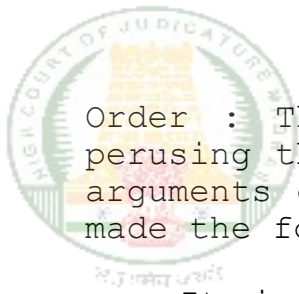
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to exempt petitioner from surrender before the learned Judicial Magistrate No.III, Tirunelveli in connection with the Judgment passed in CrI.A. No.120 of 2018 dt. 24.09.2021 on the file of the learned I Additional Session Judge (FAC), Tirunelveli, by confirming the order of conviction sentence passed by the learned Judicial Magistrate No.III, Tirunelveli in S.T.C.No.232 of 2017 dated 07.09.2018 pending disposal of Criminal Revision Petition.

PRAYER IN CRL MP(MD) No.11838 of 2021:

To Suspend the Sentence passed by the learned I-Additional Sessions Judge (FAC), Tirunelveli in Criminal Appeal No.120 of 2018 dated 24.09.2021 by confirming the order of conviction and sentence passed by the learned Judicial Magistrate No.III, Tirunelveli in S.T.C.No.232 of 2017 dated 07.09.2018, pending disposal of the main Revision Petition.

PRAYER IN CRL RC(MD) No.970 of 2021:

To call for the records pertaining to the Judgment of conviction passed by the learned I-Additional Sessions Judge (FAC), Tirunelveli in Criminal Appeal No.120 of 2018 dated 24.09.2021 by confirming the order of conviction sentence passed by the learned Judicial Magistrate No.III, Tirunelveli in S.T.C.No.232 of 2017 dated 07.09.2018 and set aside the same as illegal and pass such further or other orders.



Order : These petitions coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S. VIKRAM.S., Advocate for the petitioner, the court made the following order:-

It is seen that the petitioner was convicted by the learned Judicial Magistrate No.III, Tirunelveli, in S.T.C.No.232 of 2017 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.6,20,000/- (Rupees Six Lakhs and Twenty Thousand only) in default to undergo three months simple imprisonment, by its judgment dated 07.09.2018.

2.As against the said conviction and sentence, the petitioner has preferred an appeal in C.A.No.120 of 2018 before the learned I Additional Sessions Judge, Tirunelveli. The first appellate Court has also confirmed the conviction and sentence, by its judgement dated 24.09.2021. Aggrieved by which, the petitioner has preferred a revision case in Crl.R.C.No.970 of 2021. Along with the revision, he has filed the present applications (i) for suspension of sentence pending disposal of the said revision and (ii) to exempt the petitioner from surrendering before the Courts below.

3.The learned counsel for the petitioner fairly conceded that the petitioner is ready and willing to deposit 25% of the compensation amount to the credit of S.T.C.No.232 of 2017, before the learned Judicial Magistrate No.III, Tirunelveli, 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, 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.1,55,000/- (Rupees One lakh and Fifty Five Thousand only), after deducting any amount if already deposited, to the credit of S.T.C.No.232 of 2017, before the learned Judicial Magistrate No.III, Tirunelveli, on or before 21.01.2022.



(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 learned Judicial Magistrate No.III, Tirunelveli.

(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.

(v) On such deposit, the learned Judicial Magistrate No.III, Tirunelveli, shall re-deposit the sum of Rs.1,55,000/- (Rupees One Lakh and Fifty 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 CrI.R.C. (MD)No.970 of 2021.

(vi) If the aforesaid condition is not complied, 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 Judicial Magistrate No.III, Tirunelveli, within a period of two weeks from the date of receipt of copy of this order.

6.Accordingly, CrI.M.P. (MD)No.11836 of 2021 is dismissed.

sd/-
23/12/2021

/ TRUE COPY /

23/12/2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1 THE I-ADDITIONAL SESSIONS JUDGE (FAC),
TIRUNELVELI.

2 THE JUDICIAL MAGISTRATE NO.III
TIRUNELVELI.

3 DO THOROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.

+1 CC to Mr.S.VIKRAM, Advocate (SR-9776[I] dated 27/12/2021)

ORDER IN
CRL MP(MD) No.11836 & 11838 of 2021
IN CRL RC(MD) No.970 of 2021
Date :23/12/2021

MK/PN/SAR-4 (23.12.2021) 4P-5C