



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

Wednesday, the Second day of February Two Thousand and Twenty Two
PRESENT

The Hon`ble Mrs.Justice R.THARANI

Crl.M.P. (MD) Nos.1495 and 1497 of 2022
in
Crl.R.C. (MD) No.84 of 2022

P.SEKAR

... PETITIONER/ REVISION PETITIONER
IN BOTH THE PETITIONS

Vs

C.KAMUTHURAI

... RESPONDENT/ RESPONDENT
IN BOTH THE 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 passed by the learned Judicial Magistrate, Fast Track Court, Theni in STC.No.59 of 2016 dated 27.1.2020 confirmed by the Learned District and Sessions Court, Theni at Periyakulam in Crl.A.No.26 of 2020 dated 14.12.2021 pending disposal of the main Revision Petition.

Prayer in CRL MP(MD). 1497/ 2022 :

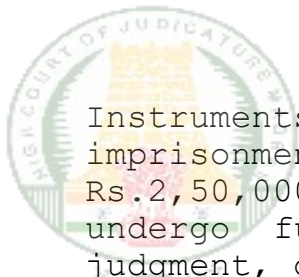
To Exempt the Petitioner from surrender before the Learned Judicial Magistrate, Fast Track Court, Theni in connection with the Judgment passed in Crl.A.No.26 of 2020 dated 14.12.2021 on the file of the Learned Additional District and Sessions Court, Theni at Periyakulam by confirming the order of conviction sentence passed by the learned Judicial Magistrate, Fast Track Court, Theni in S.T.C.No.59 of 2016 dated 27.01.2020.

Prayer in CRL RC(MD). 84/ 2022 :

To allow this Criminal Revision and set aside the Judgment and Sentence passed by the Learned Additional District and Sessions Judge, Theni at Periyakulam in CA.No.26 of 2021 dated 14.9.2021 confirming the Judgment and sentence imposed upon the Petitioner in S.C.No.59 of 2016 dated 27.01.2020 by the learned Judicial Magistrate, Fast Track Court, Theni.

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.SELVANAYAGAM, Advocate for the petitioner While admitting the Crl.R.C., the court made the following order:-

It is seen that the petitioner was convicted by the Judicial Magistrate / Fast Track Court at Magistrate Level, Theni, in S.C.No.59 of 2016 for the offence under Section 138 of Negotiable



Instruments Act and was sentenced to undergo five months simple imprisonment and to pay a compensation of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand only), in default, to undergo further period of two months simple imprisonment, by judgment, dated 27.01.2020.

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2. As against the said conviction and sentence, the petitioner has preferred an appeal in Crl.A.No.26 of 2020, before the learned Additional District and Sessions Judge, Theni at Periyakulam. The first appellate Court has also confirmed the conviction and sentence, by its judgment dated 14.09.2021. Aggrieved by which, the petitioner has preferred a revision case in Crl.R.C.No.84 of 2022. 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 S.T.C.No.59 of 2016, before the Judicial Magistrate / Fast Track Court at Magistrate Level, Theni, 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.1495 of 2022 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 today;

(ii) the petitioner shall deposit of sum of Rs.62,500/- (Rupees Sixty Two Thousand and Five Hundred only) to the credit of in S.T.C.No.59 of 2016, before the Judicial Magistrate / Fast Track Court at Magistrate Level, Theni, within a period of four weeks from today;

(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.62,500/- (Rupees Sixty Two Thousand and Five Hundred 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.84 of 2022.

6. Accordingly, Crl.M.P.(MD)No.1497 of 2022 is dismissed.

sd/-

02/02/2022

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

TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
THENI AT PERIYAKULAM.

2 THE JUDICIAL MAGISTRATE /
FAST TRACK COURT AT MAGISTRATE LEVEL, THENI

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
THENI DISTRICT.

+1. C.C. to MR.D.SELVANAYAGAM, Advocate SR.No.623.

ORDER IN

Crl.M.P.(MD)Nos.1495 and
1497 of 2022

in

Crl.R.C.(MD) No.84 of 2022

Date :02/02/2022

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MK/PN/SAR.I/03.02.2022/3P/5C