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

Monday, the Fourth day of April Two Thousand and Twenty Two
PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL.M.P. (MD)No.4101 of 2022

in

CRL.R.C. (MD)No.324 of 2022

K.B.HARIHARAN

... PETITIONER/REVISION PETITIONER/
APPELLANT/ACCUSED

Vs

SYED MUSTHAFA

... RESPONDENT/RESPONDENT/RESPONDENT/
COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the execution of sentence by granting bail in Additional District and Sessions Court, Srivilliputhur CA No.135/2012 dated 10/12/2021 in STC.3454/2010 on the file of the Judicial Magistrate, Sivakasi dated on 06/08/2012.

PRAYER IN CRL.R.C. (MD) No.324 of 2022 :

Pleased to call for the records relating to the order passed by the Additional District & Sessions Court, Srivilliputhur in C.A.No.135/2012 dated 10.12.2021 confirming the conviction passed in S.T.C.No.3454/2010 on the file of the Judicial Magistrate, Sivakasi dated 06.08.2012 and set aside the same and allow this 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.ARUNMOZHI RAJASHANKAR C, Advocate for the petitioner, the court made the following order:-

This petition is filed to suspend the sentence imposed by the judgment dated 10.12.2021 passed in Crl.A.No.135 of 2012 on the file of the learned Additional District and Sessions Judge, Srivilliputhur, confirming the judgement dated 06.08.2014 passed in STC.No.3454 of 2010 on the file of the learned Judicial Magistrate, Sivakasi.

2.The learned counsel appearing for the petitioner submitted that the petitioner has been convicted by the trial Court for the offence punishable under Section 138 of Negotiable Instruments Act and sentenced to undergo Simple Imprisonment for a period of three months and to pay the fine amount of Rs.5,000/-, in default to undergo three months simple imprisonment.



3. Challenging the above said conviction and sentence, the petitioner has filed an appeal in Crl.A.No.135 of 2012 on the file of the learned Additional District and Sessions Judge, Srivilliputhur. The Appellate Court confirmed the conviction and sentence and dismissed the appeal. Being dissatisfied with the said conviction and sentence, the petitioner has preferred the present Criminal Revision Case along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. The learned counsel appearing for the revision petitioner submitted that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. The learned counsel appearing for the petitioner would submit that the petitioner is ready and willing to deposit the entire cheque amount within a period of two weeks.

5.The learned counsel appearing for the respondent submitted that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

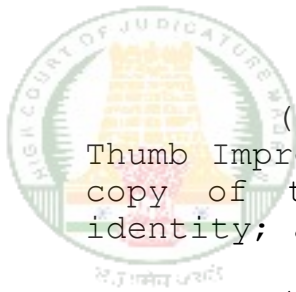
6.This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

7.The learned counsel appearing 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.

8.Accordingly, the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:-

(i) The petitioner shall deposit a sum of Rs.1,50,000/- on or before 18.04.2022 to the credit of STC.No.3454 of 2010 on the file of the learned Judicial Magistrate, Sivakasi, failing which the sentence suspended shall automatically be dismissed and the respondent is at liberty to execute the sentence imposed by the trial Court against the petitioner in the manner known to law.

(ii) On such deposit, the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two blood related sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Sivakasi.



(iii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iv) The petitioner shall appear before the trial Court daily at 10.30 a.m., for a period of two weeks and thereafter appear before the trial Court once in a month till the disposal of the Criminal Revision Case and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

sd/-
04/04/2022

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05/04/2022
Sub-Assistant Registrar (C.S-I)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
SRIVILLIPUTHUR.
2. THE JUDICIAL MAGISTRATE,
SIVAKASI.
3. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

+1 CC to M/s.ARUL MOZHI RAJA SEKAR, Advocate (SR-2954[I] dated 05/04/2022)

ORDER IN
CRL.M.P. (MD) No.4101 of 2022
in
CRL.R.C. (MD) No.324 of 2022
Date :04/04/2022

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USK/PN/SAR-I/05.04.2022/3P/5C

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