



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Monday, the First day of August Two Thousand and Twenty Two

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PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL.M.P. (MD)Nos.8878 and 8879 of 2022

in

CRL.R.C. (MD)No.721 of 2022

A.K.RAJAN

... PETITIONER / PETITIONER
in both petitions

Vs

S.NATARAJAN

... 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 passed in C.A.No. 11 of 2017 passed by the Learned V Additional District and Sessions Judge (FTC) , Theni dated 23/08/2018 filed against the judgment passed by the Judicial Magistrate, FTC at Judicial Magistrate Level, Uthamapalayam in C.C.No. 36 of 2012 dated 31.07.2015 pending disposal of the criminal revision petition.

Prayer in CRL MP(MD). 8879/ 2022 :

To pass an order of exemption to surrender in C.A.No. 11 of 2017 passed by the Learned V Additional District and Sessions Judge (FTC), Theni dated 23/08/2018 filed against the judgment passed by the Judicial Magistrate, FTC at Judicial Magistrate Level, Uthamapalayam in C.C.No. 36 of 2012 dated 31.07.2015.

Prayer in CRL RC(MD). 721/ 2022 :

To call for the records of the Judgment dated 23/08/2018 passed in Crl.A.11 of 2017 on the file of the V Additional District and Sessions Judge (FTC), Theni filed against the judgment passed in C.C.No. 36 of 2012 dt 31/07/2015 on the file of the Learned Judicial Magistrate, FTC at Judicial Magistrate Level, Uthamapalayam and set aside the same by allowing 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 Mr.P.T.RAMESH RAJA, Advocate for the petitioner and of MR.G.RAJAN, Advocate on behalf of the Respondent, the court made the following order:-



This petition has been filed to suspend the sentence passed in C.A.No.11 of 2017, by the learned V Additional District and Sessions Judge, (FTC), Theni, dated 23.08.2018 filed against the judgment passed by the learned Judicial Magistrate, FTC at JM Level, Uthamapalayam in C.C.No.36 of 2012, dated 31.07.2015 pending disposal of the criminal revision.

2.The learned counsel for the petitioner submitted that the petitioner has been acquitted by the learned Judicial Magistrate, Fast Track Court at JM Level, Uthamapalayam, in C.C.No.36 of 2012 for the offence under Section 138 of Negotiable Instruments Act as the accused was found not guilty for the offence of dishonour of cheque punishable under Section 138 of Negotiable Instruments Act vide judgment, dated 31.07.2015.

3.As against the said Judgment, the complainant has preferred an appeal in C.A.No.11 of 2017 before the learned V Additional District and Sessions Judge, (FTC), Theni and the learned V Additional District and Sessions Judge has set aside the judgment of the trial Court vide judgment, dated 23.08.2018 and the accused was found guilty of the offence under Section 138 of Negotiable Instruments Act and was sentenced to undergo simple imprisonment for a period of one year and the accused was directed to pay a compensation of Rs.2,50,000/-, to the complainant within a period of one month, in default to undergo four months simple imprisonment. Aggrieved by the said judgment, the petitioner has preferred the present Criminal Revision Case along with the Criminal Miscellaneous Petitions seeking suspension of sentence and for exemption of his surrender in pursuant to the aforesaid Judgment.

4.The learned counsel appearing for the 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.

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.Heard both sides and also perused the records.

7.It is not in dispute that the petitioner has filed a petition in Crl.MP(MD) No.5021 of 2022 in Crl.R.C.(MD)SR No.13963 of 2022 to condone the delay of 530 days in filing the above revision. This Court, vide order, dated 04.07.2022, directed the petitioner to deposit 50 % of the cheque amount before the trial Court and in pursuance of the direction of this Court, the petitioner has deposited Rs.1,25,000/-.



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

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9.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.

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

(i) The petitioner shall deposit 50% (i.e.,Rs.1,25,000/-) of remaining amount within a period of three weeks from the date of receipt of a copy of this order to the credit in C.C. No.36 of 2012 on the file of the learned Judicial Magistrate, FTC at JM Level, Uthamapalayam, failing which, the sentence suspended shall automatically 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.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, FTC at JM Level, Uthamapalayam.

(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 once in a month i.e., on the first working day of every English calendar month at 10.30 a.m., until further orders 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.



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Consequently, CrI.MP(MD)No.8879 of 2022, is dismissed.

sd/-

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

TO

- 1 THE V ADDITIONAL DISTRICT AND SESSIONS JUDGE (FTC),
THENI.
- 2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT AT MAGISTRATE LEVEL,
UTHAMAPALAYAM.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
THENI DISTRICT.

ORDER

IN

CRL.M.P. (MD) Nos.8878 and 8879 of 2022
in

CRL.R.C. (MD) No.721 of 2022

Date :01/08/2022

MK/VR/SAR.II/02.08.2022/4P/4C