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CRL MP(MD)



22

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

Thursday, the Twenty First day of July Two Thousand and Twenty Two
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.8464 of 2022

IN

CRL RC(MD) No.683 of 2022

BABURAJ

... PETITIONER/APPELLANT/ACCUSED

Vs

M/S.SAMAPURAHAL COTTON TRADERS,
REP.THROUGH ITS PROPRIETOR,
A.SUBRAMANIAN

... 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 sentence imposed by the learned Sessions Judge, Mahalir Neethimandram, (Fast Track Mahila Court), Theni dated 20.10.2020 made in C.A.No.14 of 2020, confirming the judgment passed by the learned Judicial Magistrate, Fast Track Court, Theni in connection with STC No.72 of 2018 and pending disposal of the above criminal revision petition.

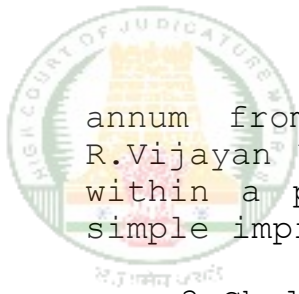
Prayer in CRL RC(MD).683/2022 :

To call for the records pertaining to the judgment dated 20.10.2020 made in C.A.No.14 of 2020 On the file of learned Sessions Judge, Mahalir Neethimandram, (Fast Track Mahila Court), Theni confirming the judgment passed by the learned Judicial Magistrate Court, Fast Track Court, Theni in S.T.C.No.72 of 2018 by order dated 06.12.2019 and allow the above 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.VISHNU.J, Advocate for the petitioner, the court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned Judicial Magistrate, Fast Track Mahila Court, Theni, in S.T.C.No.72 of 2018, dated 06.12.2019, which was confirmed by the learned Sessions Judge, Mahalir Neethimandram, Fast Track Mahila Court, Theni, in Crl.A.No.14 of 2020, dated 20.10.2020.

2.The learned counsel appearing for the petitioner submitted that the petitioner has been convicted by the trial Court for the alleged offence under Section 138 of Negotiable Instruments Act and sentenced him to undergo ten months simple imprisonment and to pay a compensation of Rs.7,32,300/- (Rupees Seven Lakhs Thirty Two Thousand and Three Hundred only) with interest at the rate of 9% per



annum from the date of dishonour as the dictum laid in R.Vijayan Vs. Baby and another [2012-1 SCC-260] to the complainant within a period of one month, in default, to undergo two months simple imprisonment.

3. Challenging the above said conviction and sentence, the petitioner has filed an appeal in CrI.A.No.14 of 2020 on the file of the learned Sessions Judge, Mahalir Neethimandram, Fast Track Mahila Court, Theni. The learned Sessions Judge, Mahalir Neethimandram, Fast Track Mahila Court, Theni, 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.

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. 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.4,00,000/- (Rupees Four Lakhs Only) within a period of three weeks from the date of receipt of a copy of this order to the credit in S.T.C.No.72 of 2018 on the file of the learned Judicial Magistrate, Fast Track Court Mahila Court, Theni, 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.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the Judicial Magistrate Court, Fast Track Court Mahila Court, Theni,

(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.

sd/-

21/07/2022

/ TRUE COPY /

22/07/2022

Sub-Assistant Registrar (C.S.)
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 SESSIONS JUDGE, MAHALIR NEETHIMANDRAM,
FAST TRACK MAHILA COURT, THENI.
- 2 THE JUDICIAL MAGISTRATE, FAST TRACK COURT, THENI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, THENI DISTRICT.

+1 CC to M/S.VISHNU.J, Advocate (SR-7479[I] Dated 21.07.2022)

ORDER IN

CRL MP(MD) No.8464 of 2022
IN CRL RC(MD) No.683 of 2022
Date :21/07/2022

RS/PN/SAR.3 (22.07.2022) 3P-5C

<https://www.mhc.tn.gov.in/judis>