



WEB COPY

CRL MP(MD) A



22

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

Wednesday, the Twenty First day of September Two Thousand and
Twenty Two

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.11314 of 2022

in

CRL.RC.(MD)No.910 of 2022

THANGATHAI ARUL

... PETITIONER/APPELLANT/ACCUSED

Vs

RATHINAKUMAR

... 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 upon the petitioner in Crl A.No. 75/2017 dated 07.06.2022 on the file of the IV Additional District Judge, Tirunelveli which is confirmed Judgment passed in S.T.C No. 13/2014 dated 11.09.2017 on the file of the District Munsif cum Judicial Magistrate Court, Cheranmahadevi and enlarge the petitioner on bail pending disposal of above Criminal Revision.

PRAYER IN CRL RC(MD) NO.910 OF 2022 :

Pleased to call for the records relating to the order passed by the Learned IV Additional District Judge, Tirunelveli in C.A No. 75/2017 dated 07.06.2022 in S.T.C No. 13/2014 dated 11.09.2017 Learned District Munsif cum Judicial Magistrate Court, Cheranmahadevi 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.SUSI KUMAR C, Advocate for the petitioner, the court made the following order:-

This petition has been filed to suspend the sentence imposed upon the petitioner in Crl.A.No.75 of 2017, dated 07.06.2022, on the file of IV Additional District Judge, Tirunelveli, which is confirmed by the judgment passed in S.T.C.No.13 of 2014, dated 11.09.2017, on the file of the District Munsif cum Judicial Magistrate Court, Cheranmahadevi, and enlarge the petitioner on bail pending disposal of the above Criminal Revision Case.

2.The learned counsel for the petitioner submitted that the petitioner has been convicted in respect of the offence under Section 138 of Negotiable Instrument Act, made in S.T.C.No.13 of 2014 on the file of the District Munsif Cum Judicial Magistrate



Court, Cheranmahadevi, dated 11.09.2017 and against the judgment of conviction, the petitioner filed an appeal before the learned IV Additional District Judge, Tirunelveli, in Crl.A.No.75 of 2017. By judgment, dated 07.06.2022, the learned Judge dismissed the appeal and confirmed the conviction and sentence passed by the Trial Court.

WEB COPY

3.He further submitted that the petitioner has been convicted by the learned trial judge, for the alleged offence under Section 138 of Negotiable Instrument Act and sentenced her to undergo Rigorous Imprisonment for a period of 6 months and to pay a compensation of Rs.2,50,000/- being the cheque amount, in default to undergo Rigorous Imprisonment for a period of 1 month, in S.T.C.No.13 of 2014 on the file of the District Munsif cum Judicial Magistrate Court, Cheranmahadevi.

4.He further submitted that even before the date of cheque, she lodged a complaint stating that the above said cheque has been misused by the complainant, which was obtained through threaten and coercion. On the basis of the complaint, enquiry was undertaken in CSR.No.338/2010. But, during the course of enquiry, she was warned by concerned Investigating Officer. On the basis of the above said warning, CSR was closed. After a lapse of 3 years of closure of enquiry, the above said cheque was filled by the complainant. Even though, case was registered, finding has not been recorded by the Trial Court as well as the Appellate Court. Since because of the petitioner admitted the signature, the above said factor cannot be taken into account.

5.In view of the submission made by the learned counsel for the petitioner, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

6.Accordingly, the suspension of sentence petition is **allowed** and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the District Munsif cum Judicial Magistrate Court, Cheranmahadevi, and on further condition that the petitioner shall appear before the said Court **once in a week** at 10.30 a.m. pending appeal.

sd/-
21/09/2022

/ TRUE COPY /

31/10/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1. THE IV ADDITIONAL DISTRICT JUDGE,
TIRUNELVELI.
2. THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
CHERANMAHADEVI.
3. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

ORDER

IN

CRL MP (MD) No.11314 of 2022
in

CRL.RC.(MD)No.910 of 2022

Date :21/09/2022

dss

USK/VR/SAR-I/31.10.2022/3P/4C