



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

Wednesday, the Nineteenth day of October Two Thousand and Twenty Two
PRESENT

The Hon`ble Mr.Justice G.ILANGOVAN

CRL MP(MD) No.12579 of 2022

IN

CRL RC(MD) No.1006 of 2022

WEB COPY

Y.JOSE YOHANNAN

... PETITIONER/PETITIONER

Vs

JASCO AGENCIES

MARTHANDAM,

REP BY ITS SOLE PROPRIETOR,

STANLY S.DHAS

... RESPONDENT/RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to pass an order to suspend the sentence imposed by the Judgment passed in CA No.57/2009 dt.21.09.2022 on the file of Additional Sessions Judge, Kuzhithurai confirming the Judgment passed by the learned Judicial Magistrate No.1, Kuzhithurai in CC No.310 of 2007 dated 16.11.2009 pending disposal of the criminal revision petition.

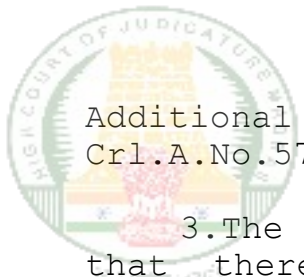
Prayer in CRL RC(MD)No.1006 of 2022 :

To pass an order to call for the records and set aside the judgment passed in C.A.No.57 of 2009 dated 21.09.2022 on the file of Additional Sessions Judge, Kuzhithurai confirming the judgment passed by the Learned Judicial Magistrate No.I, Kuzhithurai in C.C.No.310 of 2007 dated 16.11.2009 and allow the Criminal 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.SIVAKUMAR.S, Advocate for the petitioner, while admitting the Criminal Revision Case, the court made the following order:-

This petition is filed to suspend the sentence imposed by the Court of the learned Additional Sessions Judge, Kuzhithurai, in Crl.A.No.57 of 2009, dated 21.09.2022, in confirming the conviction and sentence imposed by the learned Judicial Magistrate No.I, Kuzhithurai, in C.C.No.310 of 2007, dated 16.11.2009, pending disposal of the Criminal Revision.

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 six months simple imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) in default to undergo a further period of two months simple imprisonment. The learned



Additional Sessions Judge, Kuzhithurai, confirmed the in Crl.A.No.57 of 2009.

3.The learned counsel appearing for the petitioner submitted that there was no business transaction between the revision petitioner and complainant. There was no existing or past liability between them. That was not properly taken care by the trial Court or by the Appellate Court. He also pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars.

4.This Court has carefully considered the contentions put forward by the petitioner and also perused the materials available on record.

5.Accordingly, the suspension of sentence petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the revision and the petitioner is directed to be enlarged on bail on his executing 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 Additional Sessions Judge, Kuzhithurai and on further condition that the petitioner shall appear before the concerned Court once in a week i.e., on the first working day of every week at 10.30 a.m. pending revision.

sd/-

19/10/2022

/ TRUE COPY /

27/10/2022

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 ADDITIONAL SESSIONS JUDGE, KUZHITHURAI.
- 2 THE JUDICIAL MAGISTRATE NO.I, KUZHITHURAI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

+1 CC to M/s.S.SIVAKUMAR, Advocate (SR-11671[I] dated 19/10/2022)

ORDER IN

CRL MP(MD) No.12579 of 2022

IN CRL RC(MD) No.1006 of 2022

Date :19/10/2022

TM

RS/VR/SAR. (27.10.2022) 2P-5C

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