



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

Friday, the Twenty Third day of December Two Thousand and
Twenty Two

WEB COPY

PRESENT
The Hon`ble Mr.Justice G.ILANGO VAN

CRL.M.P.(MD)No.15691 of 2022
in
CRL.R.C.(MD)No.1246 of 2022

N.M.SUKUMARAN

... PETITIONER/APPELLANT

Vs

M/S.SHIFA PROPERTY DEVELOPERS
THROUGH POWER AGENT, M.ABDUL KAREEM,
S/O.MOHAMMED KANI, NO.82, MIDDLE STREET,
KAILASAPURAM, TIRUNELVELI JUNCTION ... RESPONDENT/RESPONDENT

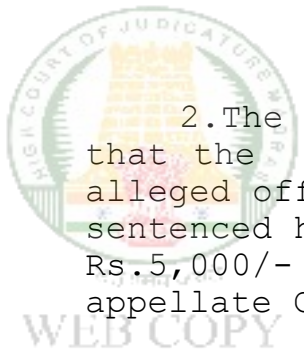
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed by the I Additional District and Sessions Judge, Tirunelveli in Crl.A.No.43 of 2017 dated 28.07.2022, by confirming the sentence imposed by the learned Judicial Magistrate No.IV, Tirunelveli in STC No.2918 of 2009 dated 29.06.2017 pending disposal of the criminal revision.

PRAYER IN CRL.R.C.(MD)No.1246 of 2022:

To call for the records relating to the impugned order passed by I Additional District and Sessions Judge, Tirunelveli in C.A.No.43/2017 dated 28.07.2022 and confirming the order of Learned Judicial Magistrate No.IV, Tirunelveli in S.T.C.No.2918/2009 dated 29.06.2017 and set aside the same by allowing the 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.NARAYANAKUMAR.K.P, Advocate for the petitioner, while admitting the CRL RC., the court made the following order:-

This petition is filed to suspend the sentence imposed by the Court of the learned I Additional District and Sessions Judge, Tirunelveli, in Crl.A.No.43 of 2017, dated 28.07.2022, in confirming the conviction and sentence imposed by the learned Judicial Magistrate No.IV, Tirunelveli in S.T.C.No.2918 of 2009, dated 29.06.2017, pending disposal of the Criminal Revision.



2.The learned counsel appearing for the petitioner stated 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 imprisonment and imposed fine of Rs.5,000/- in default to undergo one month simple imprisonment. The appellate Court has confirmed the conviction and sentence.

3.The learned counsel appearing for the petitioner submitted that the main cause of action document namely the sale agreement was not produced either before the trial Court or before the appellate Court. Since the preliminary document was not available it was not properly taken care by the Court of appeal and 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 Judicial Magistrate Court No.IV, Tirunelveli, 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 month at 10.30 a.m. pending revision.

sd/-
23/12/2022

/ TRUE COPY /

/01/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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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 JUDICIAL MAGISTRATE NO.IV, TIRUNELVELI.



CRL.M.P.(MD)N



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2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.

3 THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE, TIRUNELVELI

+1 CC to M/s.K.P.NARAYANA KUMAR, Advocate (SR-15473[I] dated
23/12/2022)

ORDER

IN

CRL.M.P. (MD) No.15691 of 2022
in

CRL.R.C. (MD) No.1246 of 2022
Date :23/12/2022

RK/BUC/SAR-1 (04/01/2023) 3P/5C