



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

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

PRESENT

The Hon`ble Mr.Justice G.ILANGOVAN

CRL MP(MD) No.14935 of 2022

IN

CRL RC(MD) No.1193 of 2022

N.THIRUNAVUKARASU

... PETITIONER/PETITIONER

Vs

1 FRANCIS

2 THE STATE REP.BY,
THE PUBLIC PROSECUTOR
NAGERCOIL.

... RESPONDENTS/RESPONDENTS

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 of Judgement dated 07.09.2022 in CA.No.58/2012 on the file of the Additional District and Sessions Judge, Padmanabhapuram, Kanyakumari District confirming the Judgement dated 13.7.2012 in STC.No.1445/2010 on the file of the Judicial Magistrate, Padmanabhapuram, Kanyakumari.

Prayer in CRL RC(MD). 1193/ 2022 :

To call for the records relating to the Judgement dated 07.09.2022 in CA.No.58/2012 on the file of the Additional District and Sessions Judge, Padmanabhapuram, Kanyakumari confirming the Judgement dt.13.7.2012 in STC.No.1445/2010 on the file Judicial Magistrate, Padmanabhapuram.

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.XAVIER RAJINI S, Advocate for the petitioner and of M/S.RMS. SETHURAMAN, Additional Public Prosecutor on behalf of the Respondent No.2 and not appeared for the respondent No.1 either in person or through by an advocate, 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 Additional District and Sessions Judge, Padmanabhapuram, Kaniyakumari District, in Crl.A.No.58 of 2022, dated 07.09.2022, in confirming the conviction and sentence imposed by the learned Judicial Magistrate, Padmanabhapuram, Kaniyakumari District in S.T.C.No.1445 of 2010, dated 13.07.2012, pending 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 to undergo one year simple imprisonment. The appellate court has confirmed the conviction and sentence.

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3.The learned counsel appearing for the petitioner submitted that the petitioner have to pay a sum of Rs.88,000/- in the year 2002 and absolutely there is no possibility for the respondent to lend Rs.6,86,000/- subsequent to the cheque date. That was not properly considered either 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.Mr.RMS.Sethuraman, learned Additional Public Prosecutor appearing for State Government (Crl.side) submitted that there are enough materials available on record against the petitioner and hence he strongly opposed to grant suspension of sentence.

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

6.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, Padmanabhapuram, Kaniyakumari District, 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/-

02/12/2022

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/12/2022

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 ADDITIONAL DISTRICT AND SESSIONS JUDGE,
PADMANABHAPURAM, KANYAKUMARI DISTRICT

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

2. THE JUDICIAL MAGISTRATE,
PADMANABHAPURAM, KANIYAKUMARI DISTRICT.



3. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI @ NAGARCOIL.

4. THE PUBLIC PROSECUTOR
NAGERCOIL.

5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.S.XAVIER RAJINI, Advocate (SR-14409[I] dated
06/12/2022)

ORDER

IN

CRL MP (MD) No.14935 of 2022

IN

CRL RC (MD) No.1193 of 2022

Date :02/12/2022

RK/VR/SAR-4 (07/12/2022) 3P/7C