



Crl.M.P.No.13409 of 2023 in Crl.R.C.No.1183 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2023

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.M.P.No.13409 of 2023
inCrl.R.C.No.1183 of 2017

G.Saravanan

... Petitioner

Vs.

R.Murugesan

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389 of Cr.P.C., to suspend the sentence imposed on 30.03.2016 in C.C.No.5 of 2007 on the file of the learned Judicial Magistrate, Palacode and confirmed in C.A.No.6 of 2016, dated 25.04.2017 by the learned Principal District Judge, Dharmapuri.

For Petitioner : Mr.S.Ayyathurai
for Mr.K.V.Dhanapalan

For Respondent : Mr.D.Gopal



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ORDER

WEB COPY This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on 30.03.2016 in C.C.No.5 of 2007 on the file of the learned Judicial Magistrate, Palacode and confirmed in C.A.No.6 of 2016, dated 25.04.2017 by the Principal District Judge, Dharmapuri. The Petitioner/Accused has been convicted and sentenced by the trial Court as follows:

Provision under which convicted	Sentence
Section 138 of Negotiable Instruments Act	The Accused is convicted and sentenced to undergo Simple Imprisonment for the period of one year and to pay a compensation amount of Rs.7,00,000/- (Rupees Seven Lakhs only) to the Respondent within a period of one month from the date of judgment.

Aggrieved by the judgment of conviction recorded by the learned Judicial Magistrate, Palacode in C.C.No.5 of 2007 dated 30.03.2016, the Accused before the learned Judicial Magistrate, Palacode, preferred Crl.A.No.6 of 2016 on the file of the learned Principal District and Sessions Judge, Dharmapuri. The learned Principal District and Sessions Judge,



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Dharmapuri, had dismissed the Crl.A.No.6 of 2016 by judgment dated 25.04.2017 thereby confirmed the conviction recorded by the learned Judicial Magistrate, Palacode in C.C.No.5 of 2007, dated 30.03.2016. Aggrieved by the judgment of the learned Principal District and Sessions Judge, Dharmapuri, the Accused before the learned Judicial Magistrate, Palacode in C.C.No.5 of 2007 had preferred this Criminal Revision Case.

2.At the time of admission of the Criminal Revision Case No.1183 of 2017, the Revision Petitioner had filed Crl.M.P.No.11328 of 2017 seeking suspension of sentence imposed on the Revision Petitioner by the learned Judicial Magistrate, Palacode and confirmed by the learned Principal District Judge, Dharmapuri. At that time, suspension of sentence was ordered and bail was granted on condition that the Accused as Revision Petitioner to deposit Rs.1,00,000/- (Rupees One Lakh only) within a period of one month from the date of receipt of copy of the order. He shall deposit the amount before the Court of the learned Judicial Magistrate, Palacode in C.C.No.5 of 2007 and he has to execute a bond for Rs.10,000/- with two sureties each for a like sum to the satisfaction of the learned Judicial



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Magistrate, Palacode. As per the order passed in Crl.M.P.No.11328 of 2017, the Revision Petitioner had executed bond before the learned Judicial Magistrate, Palacode but had not deposited the amount as per the order of this Court.

3.When the Criminal Revision Case came up for hearing before the Bench, the then Presiding Judge of this Court had verified the records and sought remarks from the learned Judicial Magistrate, Palacode. Based on the remarks offered by the learned Judicial Magistrate, Palacode, it was pointed out that the Petitioner had not deposited the amount as per the order passed by this Court in Crl.M.P.No.11328 of 2017, dated 05.10.2017. Therefore, the then Presiding Judge of this Court had directed the learned Judicial Magistrate to issue warrant in continuation of the judgment of conviction recorded in C.C.No.5 of 2007, dated 30.03.2016 and detain the Accused in Prison.

4.The learned Judicial Magistrate, Palacode, had sent report requesting time for compliance stating that the Accused was not found in



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the address stated in the complaint and it was adjourned from time to time.

Finally, the Accused was secured on 08.03.2023. Now the Accused is in Prison. Therefore, Crl.M.P.No.13409 of 2023 is filed by the Accused in C.C.No.5 of 2007 on the file of the learned Judicial Magistrate, Palacode, as Petitioner in Criminal Revision Case No.1183 of 2017 seeking suspension of sentence imposed on him on the ground that during his detention in Prison, his mother expired and he has to perform the last rites for his mother. On the date of death of his mother, the Prison authorities had granted him parole. Now, in continuation of the same, he has to perform 15th day ceremony. On appreciation of the conditions of the Revision Petitioner, now the relatives have come forward to help him for depositing the amount imposed on him at the time of admission of this Criminal Revision Case and suspension of sentence in Crl.M.P.No.11328 of 2017.

5.The learned Counsel for the Respondent, who is present in Court, vehemently opposed to grant bail to the Petitioner.



6. Considering the special circumstances arising out of the death of

the mother of the Revision Petitioner and he has to perform the last rites of his beloved mother, also the submission of the learned Counsel for the Revision Petitioner/Accused that his relatives have come forward to deposit the amount within fifteen days, this Court is inclined to grant bail to the Revision Petitioner even though the learned Counsel for the Respondent vehemently objected to grant bail.

7. Accordingly pending disposal of the Revision, the substantive sentence of imprisonment imposed on the Petitioner, by the learned Judicial Magistrate, Palacode, in C.C.No.5 of 2007, dated 30.03.2016 alone is suspended and the Petitioner is directed to be enlarged on bail on condition that the Petitioner shall execute a bond for Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Palacode and that after completion of the ceremonies, the Petitioner shall appear before the said learned Magistrate on the first working day of every English Calendar month by 10.30 a.m., and on further condition that the Petitioner/Accused is directed to deposit a sum



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of Rs.1,00,000/- (Rupees One Lakh only) to the credit of C.C.No.5 of 2007 on the file of the learned Judicial Magistrate, Palacode, within fifteen days from the date of receipt of a copy of this order or from the date of uploading of this order on the website of this Court. On such deposit, the Respondent/Complainant shall withdraw the amount by filing appropriate petition before the learned Judicial Magistrate, Palacode.

If there is violation of condition, the Respondent/Complainant shall report the violation before this Court. The Revision Petition itself will be dismissed, on such violation, by issuing direction to the learned Judicial Magistrate, Palacode.

21.09.2023
(2/2)

srm

Note: Issue order copy on 21.09.2023

To

- 1.The Principal District and Sessions Judge,
Dharmapuri.
- 2.The Judicial Magistrate,
Palacode.

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SATHI KUMAR SUKUMARA KURUP,J.

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