



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

Thursday, the Twenty Seventh day of April Two Thousand and
Twenty Three

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

Crl.M.P.(MD)No.6810 of 2023

in

Crl.R.C.(MD)No.460 of 2023

C.VADIVEL RAJ

... PETITIONER/PETITIONER

Vs

N.KRISHNAN NAIR

... 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 execution of sentence in Criminal Appeal No.97 of 2010 dated 27.06.2022 on the file of the learned Additional District Judge, Kuzhithurai confirming the judgment in S.T.C.No.1686 of 2009 dated 21.10.2010 on the file of the learned Judicial Magistrate NO.I, Kuzhithurai, pending disposal of the Criminal Revision Petition.

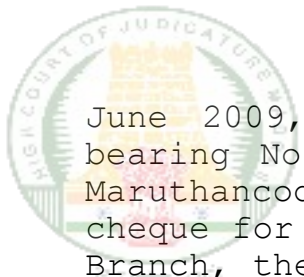
PRAYER Crl.R.C.(MD)No.460 of 2023:

Pleased to admit this Revision on file, to call for the records from the Lower Courts and set aside the Judgment of the Appellate Court passed by the Learned Additional District Judge, Kuzhithurai in Criminal Appeal No.97 of 2010 dated 27.06.2022 confirming the Judgment in S.T.C.No.1686 of 2009 dated 21.10.2010 on the file of the Learned Judicial Magistrate No.I, Kuzhithurai, by allowing this Revision.

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.RAJARAM.A, Advocate for the petitioner and of M/S.C.KOSHORE, Advocate on behalf of the Respondent, while admitting the CRL RC., the court made the following order:-

This petition has been filed to suspend the sentence imposed on the petitioner by the learned Judicial Magistrate No.I, Kuzhithurai, in S.T.C.No.1686 of 2009, dated 21.10.2010, which was confirmed by the learned Additional District Judge, Kuzhithurai, in Crl.A.No.97 of 2010, dated 27.06.2022, till the disposal of this criminal revision.

2. The case of the complainant is that the petitioner/sole accused has borrowed a sum of Rs.1,50,000/- from the complainant on 02.01.2009 and agreed to repay the said amount in the beginning of



June 2009, that the petitioner has issued a post dated bearing No.224399 dated 01.06.2009 drawn on Indian Overseas Bank, Maruthancode Branch, that when the complainant has represented the cheque for collection through his Indian Overseas Bank, Maruthancode Branch, the same was returned with reason "Insufficient Funds", that the complainant has then sent a legal notice dated 05.06.2009 to the petitioner demanding repayment of the amount covered by the cheque, that the petitioner after receiving the notice on 09.06.2009, has sent a reply raising false and untenable allegations against the complainant and that thereafter the complainant has filed a private complaint for the offence under Section 138 of Negotiable Instruments Act.

3. The learned counsel appearing for the petitioner would submit 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 6 months simple imprisonment and to pay a compensation of Rs.1,50,000/-, in default, to undergo 1 month simple imprisonment.

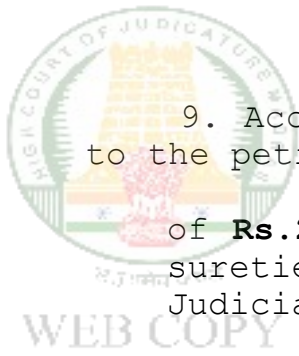
4. Challenging the above said conviction and sentence, the petitioner has filed an appeal in Crl.A.No.97 of 2010 on the file of the learned Additional District and Sessions Judge, Kuzhithurai. The learned Additional District and Sessions Judge confirmed the conviction and sentence and dismissed the appeal. Being dissatisfied with the said conviction and sentence, the petitioner has preferred the present Criminal Revision along with the instant miscellaneous petition seeking suspension of sentence.

5. It is evident from the records that the petitioner has already deposited the compensation amount of Rs.1,50,000/- before the Courts below.

6. The learned counsel appearing for the petitioner would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

7. This Court has carefully considered the rival contentions put forward by the learned counsel on either sides and also perused the materials available on record.

8. The learned counsel appearing for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal revision and further the criminal revision is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.



9. Accordingly, the relief of suspension of sentence is granted to the petitioner on the following conditions:-

(i) the petitioner shall execute a bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** with two sureties, each for a like sum to the satisfaction of the Judicial Magistrate No.I, Kuzhithurai;

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The petitioner shall appear before the trial Court once in a month i.e., on the first working day of every English calendar month at 10.30 a.m., until further orders and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

sd/-

27/04/2023

TRUE COPY /

/05/2023

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

csm

TO

1.THE JUDICIAL MAGISTRATE NO.I, KUZHITHURAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI @ NAGERCOIL.

3. THE ADDITIONAL DISTRICT JUDGE, KUZHITHURAI

ORDER

IN

Crl.M.P. (MD) No.6810 of 2023
in

Crl.R.C. (MD) No.460 of 2023

Date :27/04/2023

RK/BUC/SAR-4 (02/05/2023) 3P/4C