



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

Monday, the Twenty Seventh day of March Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) Nos.4917 and 4918 of 2023
in
CRL RC(MD) No.346 of 2023

MUTHUSAMY

... Petitioner / Petitioner

Vs

CHRISTLAL DHANAKUMAR

... Respondent / Respondent

Prayer in CRL MP(MD). 4917/ 2023 :

To Suspend the sentence imposed on the petitioner in C.C No. 20 of 2005 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District dated 17.05.2014 confirmed by the learned Additional Sessions court, Kuzhithurai, Kanyakumari District in C.A.No.25 of 2014 dated 02.11.2022 and enlarge the petitioner on Bail, pending disposal of the main Criminal Revision Petition.

Prayer in CRL MP(MD). 4918/ 2023 :

To Exempt the petitioner from surrender in C.C No. 20 of 2005 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District dated 17.05.2014 confirmed by the learned Additional Sessions court, Kuzhithurai, Kanyakumari District in C.A.No.25 of 2014 dated 02.11.2022.

Prayer in CRL RC(MD). 346/ 2023 :

To call for the records pertaining to the order passed in C.A No. 25 of 2014 on the file of the learned Additional Sessions court, Kuzhithurai, Kanyakumari District dated 02.11.2022 confirming the Judgment passed in C.C No. 20 of 2005 on the file of the learned Judicial Magistrate No.1, Kuzhithurai, Kanyakumari District and set aside the same.e sentence imposed on the petitioner in C.C No. 20 of 2005 on the

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.ARAVINTHAN.G, Advocate for the petitioner and of Mr.G.SRIDHARAN, Advocate for the Respondent, while admitting the Criminal Revision Petition, the court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari



District, in C.C.No.20 of 2005, dated 17.05.2014, which was confirmed by the learned Additional Sessions Judge, Kuzhithurai, Kanyakumari District, in C.A.No.25 of 2014, dated 02.11.2022.

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 to undergo Simple Imprisonment for a period of one year and to pay a fine of Rs.3,000/- (Rupees Three Thousand only), in default, to undergo three months simple imprisonment.

3. Challenging the above said conviction and sentence, the petitioner has filed an appeal in C.A.No.25 of 2014 on the file of the learned Additional Sessions Judge, Kuzhithurai, Kanyakumari District. The learned Additional Sessions Judge, Kuzhithurai, Kanyakumari District, 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 Case along with the above miscellaneous petition seeking suspension of sentence.

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

5. The learned counsel appearing for the respondent submitted that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

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

7. 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.

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

- (i) The petitioner shall deposit the entire amount of Rs.2,00,000/- (Rupees Two Lakhs Only) within a period of two weeks from the date of receipt of a copy of this order to the credit in C.C.No.20 of 2005 on the file of the



Kanyakumari District, failing which the sentence suspended shall automatically be dismissed and the respondent is at liberty to execute the sentence imposed by the trial Court against the petitioner in the manner known to law.

(ii) On such deposit, 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, Kanyakumari District.

(iii) 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

(iv) 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. Consequently, Crl.M.P.(MD) No.4918 of 2023, is dismissed.

sd/-

27/03/2023

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

DAS

To

1.The Additional Sessions Judge,
Kuzhithurai, Kanyakumari District.

2.The Judicial Magistrate No.I,
Kuzhithurai, Kanyakumari District.

3.Do through the Chief Judicial Magistrate,
Kanyakumari District at Nagercoil.

+1 CC to M/s.G.SRIDHARAN, Advocate (SR-4984[I] dated 28/03/2023)

ORDER

IN

CRL MP(MD) No.4917 & 4918 of 2023
in

CRL RC(MD) No.346 of 2023

Date :27/03/2023