



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

Monday, the Fifth day of June Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL.M.P. (MD) No.7726 of 2023
in
CRL.R.C. (MD) No.537 of 2023

B.VENKATESWARI

... PETITIONER/PETITIONER/ACCUSED

Vs

K.JANAKARAJ
PARTNER JANA INDUSTRIES,
683/1/108, SRIVILLIPUTTUR ROAD,
KOTHANKUZHAM VILLAGE,
RAJAPALAYAM TALUK.

... RESPONDENT/RESPONDENT/COMPLAINANT

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 one year imprisonment passed by the Honble Judicial Magistrate, Rajapalayam in CC.No.214 of 2017 dated 15.11.2019 and confirmed by the Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur in Crl.A.No.132 of 2019 dated 16.08.2022 enlarge the petitioner on bail pending disposal of revision petition.

Prayer in CRL RC(MD). 537/ 2023 :

To call for the records and set aside the order in CC.No.214 of 2017 on the file of learned Judicial Magistrate, Rajapalayam confirmed by the Honble Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur in Crl.A.No.132 of 2019 dated 16.08.2019.

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.ASHA.B, Advocate for the petitioner, the court made the following order:-

The above petition has been filed to suspend the sentence imposed on the petitioner by the learned Judicial Magistrate, Rajapalayam, in C.C.No.214 of 2017, dated 15.11.2019, which was confirmed by the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur in Crl.A.No.132 of 2019, dated 16.08.2022.



2. The case of the complainant is that the petitioner/accused has purchased yarn from the complainant for a sum of Rs.2,80,000/- and for repayment of the said amount, he has issued a cheque for a sum of Rs.1,00,000/- and agreed to repay the balance amount thereafter; that the complainant has presented the cheque for realization on 28.09.2016, the same was returned on 29.09.2016 with reason "Insufficient Funds", that the complainant has then sent a legal notice, dated 03.01.2017 to the petitioner demanding repayment of the amount covered by the cheque, that the petitioner after receiving the notice, has sent a reply notice, dated 18.01.2017 with false contention 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 and 142 of Negotiable Instruments Act and sentenced him to undergo one year simple imprisonment and to pay a compensation of Rs.1,00,000/-, in default, to undergo 3 months simple imprisonment.

4. Challenging the above said conviction and sentence, the petitioner has filed an appeal in Crl.A.No.132 of 2019 on the file of the learned Principal District and Sessions Judge, Virudhunagar at Srivilliputhur. The learned 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. 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. He would further submit that the petitioner has already deposited a sum of Rs.25,000/- before the trial Court and he is ready and willing to deposit the balance amount of Rs.75,000/- before the trial Court.

6. Heard the learned counsel for the petitioner 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 remaining amount of Rs.75,000/- (**Rupees Seventy Five Thousand Only**) on or before 04.07.2023 to the credit in C.C.No.214 of 2017 on the file of the learned Judicial Magistrate, Rajapalayam, failing which the sentence suspended shall automatically dismissed and the second 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 learned Judicial Magistrate, Rajapalayam;

(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

sd/-
05/06/2023

/ TRUE COPY /

/06/2023

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

DAS

TO

1 The Judicial Magistrate, Rajapalayam.

2 Do through the Chief Judicial Magistrate,
Virudhunagar District at Srivilliputhur.



CRL.M.P.(MD)



23

3 The Principal District and Sessions Judge,
Virudhunagar District at Srivilliputhur.

WEB COPY

ORDER

IN

CRL MP (MD) No.7726 of 2023

IN

CRL RC (MD) No.537 of 2023

Date :05/06/2023

NA/CG/SAR- /06.06.2023/4P/4C