



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

Friday, the Twenty Eighth day of April Two Thousand and Twenty Three

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PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.5785 of 2023
in
CRL RC(MD) No.389 of 2023

SIVANU @ SIVA

... PETITIONER/PETITIONER

Vs

1 LAKSHMI

2 MINOR.SUDHA

... RESPONDENTS/RESPONDENTS

(MINOR 2nd RESPONDENT REPRESENTED
BY HER MOTHER AND NATURAL GUARDIAN 1st 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 sentence imposed by the Learned Judicial Magistrate, Shenkottai order dt.14/10/2022 passed in Crl.MP.No.2517/2014 in MC no.78/2011 pending disposal of the Criminal Revision Petition.

Prayer in CRL RC(MD). 389/ 2023 :

To call for the records and set aside the order dt.14/10/2022 passed by the learned Judicial Magistrate, Shenkottai made in Crl.MP.No.2517/2014 in MC No.78/2011 and allow this Criminal Revision Petition.

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.SARAVANAKUMAR C, Advocate for the petitioner and of Mr.S.VIKRAM, Advocate on behalf of the Respondents while admitting the CRL RC., the Court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the learned District Munsif cum Judicial Magistrate, Shengottah, in Crl.M.P.No.2517 of 2014 in M.C.No.78 of 2011, dated 14.10.2022, till the disposal of this Criminal Revision.

2. The learned counsel appearing for the petitioner would submit that the respondents filed a maintenance petition under Section 125 Cr.P.C. before the learned Judicial Magistrate,



Shenkottai in M.C.No.78 of 2011 and the learned Magistrate, after enquiry, has passed an order dated 19.02.2014 directing the petitioner to pay a sum of Rs.3,000/- per month to the first respondent and a sum of Rs.3,000/- per month to the second respondent, that since the petitioner has not paid the maintenance amount, the respondents filed a petition under Section 128 Cr.P.C. in Cr.M.P.No.2517 of 2014 for enforcement of the earlier order dated 19.02.2014 and the learned Magistrate has passed an order dated 14.10.2022 and sentenced the petitioner to undergo 15 days simple imprisonment for one month's default, totalling 65 months 15 days for non-payment of arrears for 131 months or until payment of arrears of the maintenance upto the date of release whichever is earlier. Aggrieved by the above said order, the petitioner has come forward with the criminal revision along with the above application for suspension of sentence.

3. When the matter was taken up for hearing on 26.04.2023, the learned counsel appearing for the petitioner submitted that the petitioner was confined to Central Prison on 14.10.2022 and he is in prison till now and that since the petitioner is not having any means to pay the amount, he is ready to transfer the property in favour of the first respondent and seeks further time for filing affidavit.

4. When the matter is taken up for hearing today, the learned counsel appearing for the petitioner has filed an undertaking affidavit sworn by the petitioner, wherein, the petitioner has given an undertaking that he will execute a sale deed or any other document in favour of the first respondent for non-payment of arrears of maintenance amount as a one time settlement.

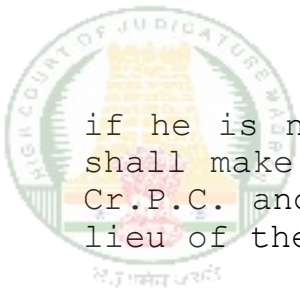
5. At this juncture, the learned counsel appearing for the respondents would submit that the undertaking affidavit filed by the petitioner may be accepted and hence, necessary orders may be passed.

6. Considering the above facts and circumstances and also taking note of the undertaking affidavit filed by the petitioner, 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 Court, Shenkottai;

(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 concerned court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the revision 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/-

28/04/2023

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28/04/2023

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

CSM

TO

- 1 THE JUDICIAL MAGISTRATE,
SHENKOTTAI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
TIRUNELVELI.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI,
TIRUNELVELI.

COPY TO:

THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
SHENKOTTAI.

+1 CC to M/s.SARAVANAKUMAR C, Advocate (SR-6965[I] dated 28/04/2023)

ORDER

IN

CRL MP (MD) No.5785 of 2023
in

CRL RC (MD) No.389 of 2023
Date :28/04/2023

SS/CG/SAR /28/04/2023/3P/6C