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

Thursday, the Tenth day of August Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

CRL MP(MD) No.11521 of 2023

in

CRL RC(MD)No.864 of 2023

MARY PREMA STELLABAI

... PETITIONER/PETITIONER

Vs

JEYA

... RESPONDENT/RESPONDENT

Criminal Miscellaneous 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 in Crl.A.No.44 of 2021 on the file of Learned I-Additional District and Sessions Court, Tirunelveli dt.13.9.2022 confirming the conviction in CC.No.524 of 2014 passed by the Learned Judicial Magistrate, Vallioor dt.30.3.2021.

Prayer in CRL RC(MD). 864/ 2023 :

To call for the records of the Judgment dated 13.9.2022 passed in Crl.A.No.44 of 2021 on the file of the I-Additional District and Sessions Court, Tirunelveli confirming the judgment passed in CC.No.524 of 2014 dt.30.3.2021.

Order : This Criminal Miscellaneous Petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.C.SUSIKUMAR, Advocate for the petitioner and of Mr.M.LAXMI MAHENDRAA, Advocate on behalf of the Respondent while admitting the CRL RC., the Court made the following order:-

This petition is filed to suspend the sentence imposed by the learned I



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Additional District and Sessions Court, Tirunelveli in Crl.A.No.44 of 2021, dated 13.09.2022, in confirming the conviction and sentence imposed by learned Judicial Magistrate, Vallioor in C.C.No.524 of 2014, dated 30.03.2021, till the disposal of the Criminal Revision.

2. The case of the complainant/respondent is that on 13.11.2014 the accused borrowed a sum of Rs.1,20,000/- from the respondent. For that, the accused has given 2 cheques which belongs to I.C.I.C.I Bank, Kavalkinaru Branch, dated 13.11.2014 for a sum of Rs.70,000/- and Rs.50,000/-. The respondent/complainant encashed the above said two cheques on 24.11.2014 at Canara Bank, Valliyoer Branch and the same were returned as "No sufficient funds". Therefore, the respondent/complainant sent a legal notice on 09.12.2014 to the petitioner/accused, but the petitioner has not sent any reply. Thereby, the accused has committed an offence punishable under Section 138 of the Negotiable Instruments Act.

3. During the trial, the respondent/complainant has examined two witnesses as P.W.1 and P.W.2 and marked Ex.P1 to Ex.P6.

4. The learned Judicial Magistrate, Valliyoer, upon considering the evidences adduced and on hearing the arguments on both the sides, has passed the impugned judgment dated 30.03.2021 and imposed a compensation of Rs.2,40,000/- for the



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offences under Section 138 of the Negotiable Instruments Act together with execution of bond for a sum of Rs.50,000/- and to be under the surveillance of the probationary officer for a period one year and to appear before the probationary officer once in a year and not to indulge in any illegal activities, in default, the petitioner shall undergo conviction and the same was confirmed in C.A.No.44 of 2021 on the file of the learned I Additional District and Sessions Court, Tirunelveli.

5. Challenging the same, the revision petitioner has filed the revision along with suspension of sentence. The petitioner's case is that the cheque in question was stolen and to prove the same, D.W.1 deposed before the Court. The courts below have not considered the same in proper manner. This Court considered the said submission and she undertakes to deposit 25% compensation amount.

6. Apart from that, certain infirmities and inconsistencies in this case and also certain contradictions in material particulars brought to the knowledge of this Court and hence, this Court *prima facie* feels that there are arguable points involved in this criminal revision case and further the criminal revision case 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.



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

(i) The petitioner shall deposit 25% of the compensation amount awarded by the trial Court to the credit of C.C.No.524 of 2014 within a period of four weeks from the date of receipt of a copy of this order.

(ii) 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, Vallioor;

(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.

sd/-
10/08/2023

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/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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- 1 THE I ADDITIONAL DISTRICT AND
SESSIONS JUDGE, TIRUNELVELI.
- 2 THE JUDICIAL MAGISTRATE
VALLIOOR.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
TIRUNELVELI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL MP(MD) No.11521 of 2023
in
CRL RC(MD)No.864 of 2023
Date :10/08/2023
(1/2)

SS/VR/21/08/2023/5P/5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023