



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

Monday, the Twenty Sixth day of June Two Thousand and Twenty Three
PRESENT

WEB COPY

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP (MD) No.9023 of 2023
in
CRL RC (MD) No.640 of 2023

MOHAMED IKAS IBRAHIM
PROPRIETOR, AQUVA SMART WATER SYSTEM,
S/O.IMAM, 38A, CITY COMPLEX,
RAILWAY FEEDER ROAD,
RAJAPALAYAM - 626117,
VIRUDHUNAGAR DISTRICT.

... PETITIONER/PETITIONER

Vs

K.GOVINDARAJ

... 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 order of conviction and sentence of simple imprisonment for a period of one year imposed on the petitioner herein by the judgement made in C.C.No.19/2017 dated 07.03.2018 confirmed by the learned Principal District and sessions Judge, Virudhunagar District at Srivilliputhur in Crl.A.No.42/2018 dated 29.03.2022, pending disposal of the above Crl.R.C.

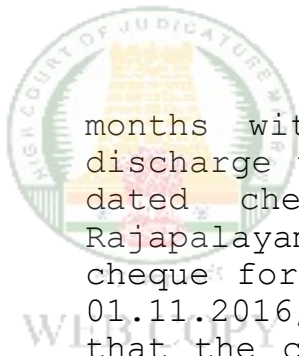
Prayer in CRL RC (MD). 640/ 2023 :

To call for the records to set aside the order passed in Crl.A.No.42/2018 dt 29.03.2022 on the Learned Principal District and Sessions Judge Virudhunagar District at Srivilliputhur confirming the judgment made in C.C.No.19/2017 dt 07.03.2018 on the file of the Learned Judicial Magistrate Court, Rajapalayam by allowing 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.KAVIARASAN.K, 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.19 of 2017, dated 07.03.2018, which was confirmed by the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur, in Crl.A.No.42 of 2018, dated 29.03.2022.

2. The case of the complainant is that the petitioner/accused has borrowed a sum of Rs.1,65,000/- from the complainant for his sundry expenses and agreed to repay the said amount within three



months with Rs.1/- interest for an amount of Rs.100/- and to discharge the above said liability the petitioner has issued a post dated cheque bearing No.000155 drawn on Karur Vysya Bank, Rajapalayam Branch, that when the complainant has presented the cheque for collection through his IDBI Bank, Rajapalayam Branch on 01.11.2016, the same was returned with reason "Insufficient Funds", that the complainant has then sent a legal notice dated 17.11.2016 to the petitioner demanding repayment of the amount covered by the cheque, that the petitioner, after receiving the notice, has failed to repay the amount and also failed to reply the notice 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 offences under Sections 138 and 142 of Negotiable Instruments Act and sentenced him to undergo 1 year simple imprisonment.

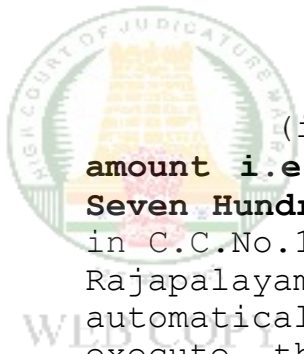
4. Challenging the above said conviction and sentence, the petitioner has filed an appeal in CrI.A.No.42 of 2018 on the file of the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur. The learned Sessions Judge confirmed the conviction and sentence and dismissed the 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 out of cheque amount of Rs.1,65,000/- (Rupees One Lakh and Sixty Five Thousand only), the petitioner has already deposited Rs.41,250/- (Rupees Forty One Thousand Two Hundred and Fifty only). He would further 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.

6. This Court has carefully considered the contentions put forth by the learned counsel appearing 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 ~~cheque~~ amount i.e., **Rs.1,23,750/- (Rupees One Lakh Twenty Three Thousand Seven Hundred and Fifty only)** on or before **25.07.2023** to the credit in C.C.No.19 of 2017 on the file of the learned Judicial Magistrate, Rajapalayam, failing which the sentence suspended shall automatically dismissed and the concerned police 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 Court, 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.

9. Post the matter on **26.07.2023** 'for reporting compliance'.

sd/-

26/06/2023

/ TRUE COPY /

/07/2023

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

csm

TO

- 1 THE JUDICIAL MAGISTRATE
RAJAPALAYAM.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
- 3 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

ORDER

IN

CRL MP(MD) No.9023 of 2023
in

CRL RC(MD) No.640 of 2023

Date : 26/06/2023

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