



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

Wednesday, the Twenty Sixth 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.6098 of 2023
in
CRL RC(MD) No.414 2023

V.CHANDRASEKAR

... Petitioner / Petitioner /
Appellant / Respondent

Vs

A.VAIRAKANI

... Respondent / Respondent /
Respondent / Petitioner

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 passed by the learned Judicial Magistrate, Sivakasi, in C.C No. 262 of 2012 dated 03.09.2015 which was confirmed by the Learned Additional District and Sessions Court, Virudhunagar district at Srivilliputhur in Crl A No. 92 of 2015 dated 28.02.2023, pending disposal of the main Revision Petition.

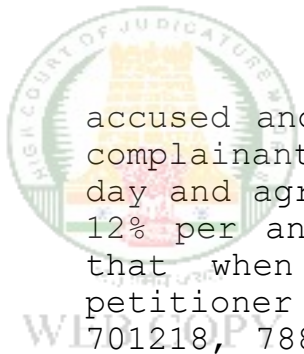
Prayer in CRL RC(MD). 414/ 2023 :

To call for the records pertaining to the Judgment of conviction passed by the Learned Additional District and Sessions Court, Virudhunagar District at Srivilliputhur in Crl A No. 92 of 2015 dated 28.02.2023 by confirming the order of conviction sentence passed by the Learned Judicial Magistrate, Sivakasi in C.C.No.262 of 2012 dated 03.09.2015 and set aside the same.

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.SURYA S, 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, Sivakasi, in C.C.No.262 of 2012, dated 03.09.2015, which was confirmed by the learned Additional District and Sessions Judge, Srivilliputtur, in Crl.A.No.92 of 2015, dated 28.02.2023, till the disposal of this criminal revision.

<https://www.mhc.tn.gov.in/> The case of the complainant is that the petitioner/sole



accused and his wife have borrowed a sum of Rs.3,00,000/- the complainant on 10.01.2012 and executed a promissory note on the same day and agreed to repay the said amount with interest at the rate of 12% per annum, that the petitioner had paid interest amount only, that when the complainant demanded the principal amount, the petitioner has issued 6 cheques bearing Nos.701219, 701243, 788956, 701218, 788955 and 788959 dated 25.05.2012, 29.05.2012, 13.06.2012, 01.06.2012, 08.06.2012 and 22.06.2012 respectively drawn on IndusInd Bank, Sivakasi Branch, that when the complainant has represented the cheques for collection, the same were returned with reason "Insufficient Funds", that the complainant has then sent a legal notice dated 02.08.2012 to the petitioner demanding repayment of the amount covered by the cheque, that the petitioner, after receiving the notice, has sent a reply notice disputing the liability and the issuance of the cheque 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 of Negotiable Instruments Act and sentenced him to undergo 6 months simple imprisonment and to pay a compensation of Rs.3,00,000/-, which is payable within 1 month, in default, to undergo 3 months simple imprisonment.

4. Challenging the above said conviction and sentence, the petitioner has filed an appeal in CrI.A.No.92 of 2015 on the file of the learned Additional District and Sessions Judge, Srivilliputtur. The learned Additional District and 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.

6. This Court has carefully considered the contentions put forward 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 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 a sum of **Rs.2,00,000/- (Rupees Two Lakhs only)** on or before **08.06.2023** to the credit in C.C.No.262 of 2012 on the file of the learned Judicial Magistrate, Sivakasi, 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 Judicial Magistrate, Sivakasi;

(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/-
26/04/2023

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/05/2023

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

CSM

To

1.The Judicial Magistrate,
Sivakasi.

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

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



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+1 CC to M/s.SURYA S, Advocate (SR-6616[I] dated 26/04/2023)

ORDER

IN

CRL MP (MD) No.6098 of 2023

in

CRL RC (MD) No.414 2023

Date :26/04/2023

ED/MMS/SAR-3 (02/05/2023) 4P 5C