



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

Thursday, the Twenty Seventh day of April Two Thousand and Twenty
Three

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PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

Crl.M.P.(MD)No.6898 of 2023
in
Crl.R.C.(MD)No.256 of 2023

SHEIK MOHAMED

... PETITIONER/PETITIONER

Vs

RAJESH

... 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 Sentence passed in STC No.105/2019 dated 31.12.2020 on the file of the learned District Munsif Cum Judicial Magistrate, Aravakurichi confirmed in Criminal Appeal No.2/2021 dated 17.08.2022 on the file of learned District Court, Karur and enlarge the petitioner on bail till the disposal of the above Revision Petition.

Prayer in CRL RC(MD). 256/ 2023 :

To call for the records pertaining to the Judgment dated 17.08.2022 in Criminal Appeal No. 02 of 2021 on the file of the learned Principal District Judge, Karur preferred against the Judgment 31.12.2020 in STC No. 105/2019 on the file of the learned District Munsif-cum-Judicial Magistrate, Aravakurichi and set aside the both by allowing this 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.NARAYANAN.R, 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 District Munsif cum Judicial Magistrate, Aravakurichi, in S.T.C.No.105 of 2019, dated 31.12.2020, which was confirmed by the learned Principal District Judge, Karur, in Crl.A.No.02 of 2021, dated 17.08.2022.



2. The case of the complainant is that the petitioner/sole accused has borrowed a sum of Rs.5,00,000/- from the complainant on 17.04.2016 and agreed to repay the said amount with interest at the rate of Rs.1/- per hundred per month, that on the same day, the petitioner has issued a post dated cheques bearing Nos.637511 and 637513 dated 17.11.2016 and 07.12.2016 drawn on State Bank of India, Navalpattu Branch, that when the complainant has presented the cheque bearing No.637511 for collection through his State Bank of India, Aravakurichi Branch, the same was returned with reason "Insufficient Funds", that the complainant has presented another cheque bearing No.637513 for collection, the said cheque was dishonored, that the complainant has then sent a legal notice dated 15.12.2016 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 offence under Section 138 of Negotiable Instruments Act and sentenced him to undergo 6 months simple imprisonment and to pay a compensation of Rs.5,00,000/-, in default, to undergo 2 months simple imprisonment.

4. Challenging the above said conviction and sentence, the petitioner has filed an appeal in Crl.A.No.02 of 2021 on the file of the learned Principal District Judge, Karur. The learned Principal District 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 consideration in the near future and as such, this Court is of the



considered view that the petitioner herein is entitled to the grant of suspension of sentence.

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

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(i) The petitioner shall deposit **50% of the compensation amount** within a period of two weeks from the date of receipt of a copy of this order to the credit in S.T.C.No.105 of 2019 on the file of the learned District Munsif cum Judicial Magistrate, Aravakurichi, failing which the sentence suspended shall automatically be 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 District Munsif cum Judicial Magistrate, Aravakurichi;

(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/-
27/04/2023

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/05/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CSM

TO

1 District Munsif Cum Judicial Magistrate, Aravakurichi.

2 Do through the Chief Judicial Magistrate,
Karur.

<https://www.mhc.tn.gov.in/judis>



Crl.M.P.(MD)



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3 Principal District Judge, Karur.

+1 CC to M/s.R.NARAYANAN, Advocate (SR-6756[I] dated 27/04/2023)

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ORDER

IN

CRL MP (MD) No.6898 of 2023

IN

CRL RC (MD) No.256 of 2023

Date :27/04/2023

NA/CG/SAR-2/28.04.2023/4P/5C