



CRL MP(MD) No.10178 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Tuesday, the Eighteenth day of July Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN
CRL MP(MD) No.10178 of 2023
in
CRL RC(MD) No.745 of 2023

JOSEPH WILSON

... Petitioner / Petitioner

Vs

T.KANAKARAJ

... Respondent / Respondent

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge the petitioner on bail by suspending the sentence imposed in C.A.No.96 of 2010 by the Additional District and Sessions Judge,Padmanabhapuram dated 05.12.2022 confirming the judgment of conviction and sentence made in S.T.C.No.1703 of 2007 by the Judicial Magistrate,Padmanabhapuram dated 20.10.2010 pending disposal of the above criminal revision case.

Prayer in CRL RC(MD). 745/ 2023 :

To call for the records and to set aside the judgment of conviction and sentence made in C.A.No.96 of 2010 by the Additional District and Sessions



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Judge, Padmanabhapuram dated 05.12.2022 confirming the judgment of conviction and sentence made in S.T.C.No.1703 of 2007 by the Judicial Magistrate, Padmanabhapuram, dated 20.10.2010.

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.VENKATESH.D, Advocate for the petitioner, while admitting the criminal revision case, the court made the following order:-

This petition is filed to suspend the sentence imposed by the learned Additional District and Sessions Judge, Padmanabhapuram, in Crl.A.No.95 of 2010 dated 05.12.2022, in confirming the conviction and sentence imposed by the learned Judicial Magistrate, Padmanabhapuram, in S.T.C.No.1703 of 2007, dated 20.10.2010, and enlarge the petitioner on bail till the disposal of the Criminal Revision.

2. The learned counsel for the petitioner would submit that the petitioner was convicted by the learned Judicial Magistrate, Padmanabhapuram, for the offence under Section 138 of Negotiable Instruments Act, and sentenced him to undergo 6



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months^{*} Rigorous Imprisonment. The learned Additional District and Sessions Judge, Padmanabhapuram, dismissed the appeal filed by the petitioner, in CrI.A.No.95 of 2010.

3. The learned counsel for the petitioner submitted that there are some arguable points involved in the criminal revision and the learned trial Judge as well as the Appellate Judge has not considered the evidence in proper prospect and hence, the judgments are suffered from perversity. He further submitted that the cheque was not issued infavour of the defacto complainant. Hence, he seeks for the suspension of sentence.

4. This Court has carefully considered the submission made by the counsel for the petitioner and also perused the materials available on record.

5. Considering the fact that the cheque was not issued infavour of the defacto complainant and as rightly contended by the learned counsel for the petitioner that there are some arguable points involved in the criminal revision and since there was no antecedent against the petitioner, this Court is inclined to grant suspension of sentence.



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6. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the revision with the following directions:-

(i) The petitioner shall deposit 25% of the Cheque amount to the credit of S.T.C.No.1703 of 2007 on the file of the learned Judicial Magistrate, Padmanabhapuram, within a period of two weeks from the date of receipt of a copy of this order, failing which the sentence suspended shall automatically be dismissed and the respondent 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, Padmanabhapuram;

(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



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(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.

sd/-
18/07/2023

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/09/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSS

To

1.The Additional District and Sessions Judge, Padmanabhapuram.

2.The Judicial Magistrate, Padmanabhapuram.

3.Do through the Chief Judicial Magistrate,
Kanniyakumari District at Nagercoil.

+1CC to M/s.D.VENKATESH, Advocate, SR-11011(I), dated 20.07.2023

ORDER
IN
CRL MP(MD) No.10178 of 2023
in
CRL RC(MD) No.745 of 2023
Date :18/07/2023

ED/VR/SAR- (20/07/2023) 5P / 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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