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

Tuesday, the Twenty Second day of August Two Thousand and Twenty Three

PRESENT

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

CRL MP(MD) No.11249 of 2023

in

CRL RC(MD)No.842 of 2023

N.SUBRAMANIAN

... PETITIONER/PETITIONER

Vs

S.ASHOKAN

... RESPONDENT/RESPONDENT

Criminal Miscellaneous Petition 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 imposed by the learned II Additional District and Sessions Judge, Thanjavur in Crl.A.No.73 of 2021 dated 02.08.2022 confirming the conviction and sentence passed by learned Judicial Magistrate Fast Track Court, Thanjavur in S.T.C.No.102 of 2015 dated 22.09.2021 pending disposal of this revision and release the petitioner on bail.

Prayer in CRL RC(MD). 842/ 2023 :

To call for the records of the impugned judgment dated 02.08.2022 in Crl.A.No.73 of 2021 by the learned II Additional District and Sessions Court, Thanjavur confirming the conviction and sentence passed by the learned Judicial Magistrate Court(Fast Track Court), Thanjavur in S.T.C.No.102 of 2015 dated 22.09.2021 and set aside the same by allowing the Revision Petition.

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.R.PON KARTHIKEYAN, Advocate for M/S.ARULVADIVEL ASSOCIATES, for the petitioner and of Mr.T.SEENI SYED AMMA, Advocate for M/s.LAJAPATHI ROY AND ASSOCIATES, on behalf of the Respondent while admitting the CRL RC.,, the Court made the following order:-



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This petition is filed to suspend the sentence imposed by the learned II Additional District and Sessions Judge, Thanjavur, in CrI.A.No.73 of 2021 dated 02.08.2022, in confirming the conviction and sentence imposed by the learned Judicial Magistrate Fast Track Court, Thanjavur, in S.T.C.No.102 of 2015, dated 22.09.2021 and release the petitioner on bail pending disposal of the main Revision.

2. The learned counsel for the petitioner would submit that the petitioner was convicted by the learned Judicial Magistrate Fast Track Court, Thanjavur, for the offence under Section 138 of Negotiable Instruments Act, and sentenced him to undergo 6 months Simple Imprisonment and also directed him to pay a sum of Rs.10,00,000/- as compensation to the complainant within a period of two months in default to undergo one month Simple Imprisonment. The learned II Additional District and Sessions Judge, Thanjavur, dismissed the appeal filed by the petitioner, in CrI.A.No.73 of 2021.

3. The learned counsel for the petitioner would submit 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 would further submit that there was some dispute regarding the quantum of the cheque amount. For which, he also



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adduced the evidence. He would further submit that in the Lok-Adalat which was held before the trial Court, settlement has been arrived between the parties for a sum of Rs.15,00,000/-. He would further submit that he has already deposited a sum of Rs.4,80,000/- in STC.No.102 of 2015 and Rs.2,00,000/- in STC.No.101 of 2015. Further, he has deposited a sum of Rs.1,00,000/- through Indian Overseas Bank, Thambikottai, Vadagadu. Totally, he has deposited a sum of Rs.7,80,000/-. To prove the same, he has also enclosed a copy of the documents. Now, the petitioner is ready to deposit remaining amount excluding the amount already deposited and he seeks time for a period of four weeks for making deposit of remaining amount of Rs.7,20,000/-. 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 there is a dispute regarding the cheque amount and also the petitioner undertakes to deposit remaining amount of Rs.7,20,000/- apart from the amount of Rs.7,80,000/- 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 a sum of **Rs.20,000/- (Rupees Twenty Thousand Only)** to the credit of S.T.C.No.102 of 2015 on the file of the learned Judicial Magistrate Fast Track Court, Thanjavur, within a period of **four weeks** from the date of receipt of a copy of this order, failing which the sentence suspended shall automatically 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 Fast Track Court, Thanjavur;

(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 high., on



the first working day of every English calendar month at 10.30 a.m., until further orders.

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sd/-
22/08/2023

/ TRUE COPY /

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

DSS

TO

- 1 THE II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, THANJAVUR.
- 2 THE JUDICIAL MAGISTRATE
(FAST TRACK COURT), THANJAVUR.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.

+1 CC to M/s.C.ARUL VADIVEL ASSOCIATES, Advocate (SR-12589[I] dated
22/08/2023)

ORDER
IN
CRL MP(MD) No.11249 of 2023
in
CRL RC(MD)No.842 of 2023
Date :22/08/2023
(1/4)

SS/DD/29/08/2023/5P/5C

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