



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

Thursday, the Eighth day of June Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.7807 of 2023
in
CRL RC (MD)No. 549 of 2023

K.THANGASAMY

... PETITIONER/ACCUSED

Vs

S.VAIRAMUTHU

... RESPONDENT/COMPLAINANT

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 of six months of simple imprisonment passed in Criminal Appeal No.140 of 2018 dated 30.11.2022 on the file of the learned Principal District and Sessions Judge, Virudhunagar at Srivilliputtur which confirmed the Judgment of the learned Trial Court in STC No. 748/2013 dated 13.11.2018 on the file of the Learned Judicial Magistrate No. II, Sattur pending disposal of the Criminal Revision Case.

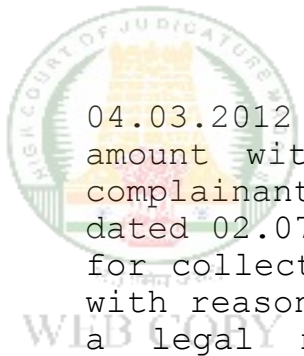
Prayer in CRL RC(MD). 549/ 2023 :

To call for the entire records pertaining to Criminal Appeal No.140 of 2018 on the file of the Learned Principal District and Sessions Judge, Virudhunagar at Srivilliputtur and to set-aside the Judgment passed therein on 30.11.2022, which confirmed the Judgment of the learned Trial Court in STC No. 748/2013 dated 13.11.2018 on the file of the Learned Judicial Magistrate No. II, Sattur.

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.ARUMUGAM C.M., 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 No.II, Sattur, in S.T.C.No.748 of 2013, dated 13.11.2018, which was confirmed by the learned Principal District and Sessions Judge, Virudhunagar at Srivilliputtur, in Crl.A.No.140 of 2018, dated 30.11.2022.

2. The case of the complainant is that the petitioner/accused has borrowed a sum of Rs.2,00,000/- from the complainant on



04.03.2012 for his family expenses and agreed to repay the amount within three months, that after the demand made by the complainant on various dates, the petitioner has issued a cheque dated 02.07.2012, that when the complainant has presented the cheque for collection on 02.07.2012, the same was returned on the same day with reason "Insufficient Funds", that the complainant has then sent a legal notice dated 25.07.2012 to the petitioner demanding repayment of the amount covered by the cheque, that the petitioner after receiving the notice, the petitioner neither paid the cheque amount nor replied to the legal 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.2,00,000/-, in default, to undergo 6 months simple imprisonment.

4. Challenging the above said conviction and sentence, the petitioner has filed an appeal in Crl.A.No.140 of 2018 on the file of the learned Principal District and Sessions Judge, Virudhunagar 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.

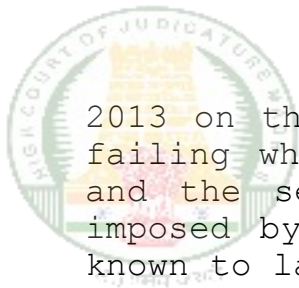
5. The learned counsel appearing for the petitioner would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

6. Heard the learned counsel 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 75% of the cheque amount (Rs.1,50,000/-) within a period of three weeks from the date of receipt of this order. A copy of this order to the credit in S.T.C.No.748 of



2013 on the file of the learned Judicial Magistrate No.II, failing which the sentence suspended shall automatically be dismissed and the second respondent is at liberty to execute the sentence imposed by the trial Court against the petitioner in the manner known to law;

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(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 No.II, Sattur ;

(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/-
08/06/2023

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/06/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DAS
TO

- 1 THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE, VIRUDHUNAGAR AT
SRIVILLIPUTHUR.
- 2 THE JUDICIAL MAGISTRATE NO.II
SATTUR
- 3 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUAGAR DISTRICT AT SRIVILLIPUTHUR.

ORDER
IN
CRL MP(MD) No.7807 of 2023
in
CRL RC (MD) No. 549 of 2023
Date :08/06/2023

PKP/MMS/SAR- /12.06.2023/ **3P/4C**

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