



CRL MP(MD) No.11167 of 2023

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

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

PRESENT

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

CRL MP(MD) No.11167 of 2023

in

CRL RC(MD) No.830 of 2023

KALIMA NIZAM @ NIZAMUDHEEN

... Petitioner / Petitioner

Vs

E.KARTHIKEYAN

... Respondent / Respondent

Criminal Miscellaneous 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 on the petitioner in S.T.C.No.13 of 2020 on the file of Judicial Magistrate, Fast track Court (Magistrate Level), Pattukottai dated 29.10.2020 confirmed by the learned III Additional District Judge, Thanjavur at Pattukkottai dated 06.12.2022, pendin disposal of the main criminal revision petition.

Prayer in CRL RC(MD) No.830 of 2023:

To call for the records pertaining to the order passed in Crl.A.No.18 of 2021 on the file of III Additional District Judge, Thanjavur at Pattukkottai dated 6.12.2021 in STC No.13 of 2020 dated 29.10.2020 on the file of Judicial Magistrate, Fast Track Court (Magisterial Level), Pattukkottai and set aside the same.

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 M/S.ANAND.V, Advocate for the petitioner, while admitting the Criminal Revision Case, the court made the following order:-



CRL MP(MD) No.11167 of 2023

WEB COPY

This petition is filed to suspend the sentence imposed by the III Additional District Judge, Thanjavur at Pattukkottai, in CrI.A.No.18 of 2021 dated 06.12.2022, in confirming the conviction and sentence imposed by the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Pattukkottai, in S.T.C.No.13 of 2020, dated 29.10.2020, 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 (Magisterial Level), Pattukkottai, for the offence under Section 138 of Negotiable Instruments Act, and sentenced him to undergo 1 year Simple Imprisonment and also to pay a sum of Rs.7 lakhs as compensation to the complainant within a period of one month in default to undergo 3 months Simple Imprisonment. The III Additional District Judge, Thanjavur at Pattukkottai, dismissed the appeal filed by the petitioner, in CrI.A.No.18 of 2021.

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 defacto complainant has no means to pay the amount and he is in custody for more than 60 days. Hence, he seeks for the suspension of sentence.



CRL MP(MD) No.11167 of 2023

WEB COPY

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 defacto complainant has no means to pay the amount and also considering the period of incarceration 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.

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.13 of 2020, on the file of the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Pattukkottai, 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



CRL MP(MD) No.11167 of 2023

WEB COPY

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 (Magisterial Level), Pattukkottai;

(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.

sd/-
08/08/2023

/ TRUE COPY /

10/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSS

To

1.The III Additional District Judge,
Thanjavur at Pattukkottai.

2.The Judicial Magistrate,
Fast Track Court (Magisterial Level),
Pattukkottai.



CRL MP(MD) No.11167 of 2023

3.Do through the Chief Judicial Magistrate,
Thanjavur District at Kumbakonam.

4.The Superintendent,
Central Prison, Trichy

+1 CC to M/s.V.ANAND, Advocate (SR-11957[I] dated 08/08/2023)

ORDER
IN
CRL MP(MD) No.11167 of 2023
in
CRL RC(MD) No.830 of 2023
Date :08/08/2023

ED/ /SAR- (10/08/2023) 5P / 6C

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