



CRL MP(MD) No.12151 of 2023

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

Wednesday, the Twenty Third day of August Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN
CRL MP(MD) No.12151 of 2023
in
CRL RC(MD) No.926 of 2023

P.SURESHKUMAR

... PETITIONER/PETITIONER

Vs

M.MAJEET

... 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 in C.A No. 58 of 2019 by the Additional District and Sessions Judge, Palani, Dindigul District dated 15.09.2022 by confirming the conviction and sentence made in C.C No. 77 of 2018 dated 26.06.2019 on the file of the Judicial Magistrate (Fast Track) Court, Palani, Dindigul District and enlarge the petitioner on bail till the disposal of the above revision petition.

Prayer in CRL RC(MD). 926/ 2023 :

To call for the records pertaining to the judgment of conviction and sentence made in C.A No. 58 of 2019 by the Additional District and Sessions Judge, Palani, Dindigul District dated 15.09.2022 by confirming the conviction and sentence made in C.C No. 77 of 2018 dated 26.06.2019 on the file of the Judicial Magistrate (Fast Track) Court, Palani, Dindigul District 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.LENIN KUMAR T, Advocate for the petitioner and of MR.D.VENKATESH, Advocate on behalf of the Respondent, while admitting the Criminal Revision Case, the court made the following order:-



CRL MP(MD) No.12151 of 2023

WEB COPY

This petition is filed to suspend the sentence imposed by the learned Additional District and Sessions Judge, Palani, Dindigul District in C.A.No.58 of 2019 dated 15.09.2022 by confirming the conviction and sentence made in C.C.No.77 of 2018 dated 26.06.2019 on the file of the Judicial Magistrate (Fast Track) Court, Palani, Dindigul District and enlarge the petitioner on bail pending disposal of the main Criminal Revision Case.

2. The case of the defacto complainant is that the petitioner/accused is running an agency in the name of Jothi Agencies and taken Kalimark Soft drinks Agency. The petitioner was in the need of money for his business. Therefore, the complainant and one N.T.Sugumaran were offered money a sum of Rs.1,00,000/- each to the accused and joined as partners in the said business. They entered into an agreement for that, for the period from 21.09.2015 to 21.03.2018. The agreement period closed on 21.03.2018. It is agreed by them in the agreement that after the agreement period the accused has to pay Rs.1,00,000/- to each partners. Accordingly, in order to discharge the burden the accused issued a cheque dated 07.05.2018 for a sum of Rs.2,00,000/- in favour of the complainant on request to present the same after 40 days and asked to give Rs.1,00,000/- to Sukumaran. The cheque was sent to the bank for collection, but the same was returned as Insufficient funds. Therefore, the complainant issued a notice to the petitioner on 15.05.2018 through his Counsel, which was received by the



CRL MP(MD) No.12151 of 2023

accused on 16.05.2018. Even after that, the accused has not come forward to repay the cheque amount. Thereafter, the complainant lodged the complaint against the petitioner under Section 138 of the Negotiable Instruments Act, 1988, and the same was taken on file in C.C.No.77 of 2018 before the Judicial Magistrate Court, (Fast Track Court), Palani.

3. During trial, the complainant has examined as P.W.1 and exhibited 6 documents as Ex.P.1 to Ex.P.6 and no material objects were marked.

4. The learned Judicial Magistrate, Tenkasi, after full-fledged trial, has passed the judgment in C.C.No.77 of 2018, dated 20.06.2019 and convicted the petitioner/accused for the offence under Section 138 of the Negotiable Instrument Act, and sentenced him to undergo one six months simple imprisonment and to pay a sum of Rs.3,000/- as fine in default to undergo one moth simple imprisonment. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the learned Additional District and Sessions Judge, Palani, Dindigul District, in C.A.No.58 of 2019. However, the same was dismissed on 15.09.2022, thereby confirming the conviction and sentence imposed on the petitioner. Aggrieved over the above said conviction and sentence, imposed by the Courts below, the petitioner preferred the present Criminal Revision Case along with the present Miscellaneous Petition seeking for suspension of sentence.



CRL MP(MD) No.12151 of 2023

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5. The learned counsel 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. Further as per the evidence of P.W.1 and P.W.2, he has not produced any evidence and documents before the Courts below to prove his case. Hence, he seeks suspension of sentence.

6. This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on record.

7. The petitioner is said to have committed the offence under Section 138 of the Negotiable Instrument Act. It is the specific case of the petitioner, that the petitioner claims that the respondent is not having any means. Further, the learned counsel for the petitioner pointed out certain infirmities and inconsistencies in this case and also certain contradictions in material particulars and he is ready to deposit a sum of Rs.75,000/-. So this Court prima facie satisfied 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 inclined to suspend the sentence imposed on the petitioner.

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



CRL MP(MD) No.12151 of 2023

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(i) The petitioner shall deposit a sum of Rs.75,000/- (Rupees Seventy Five Thousand Only) within a period of four weeks from the date of receipt of a copy of this order.

(ii) 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], Palani, Dindigul District.

(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 concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal.

sd/-
23/08/2023

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/10/2023

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



CRL MP(MD) No.12151 of 2023

TO

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1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, PALANI,
DINDIGUL DISTRICT

2 THE JUDICIAL MAGISTRATE (FAST TRACK) COURT, PALANI,
DINDIGUL DISTRICT

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, DINDIGUL DISTRICT.

+1 CC to M/s.T.LENIN KUMAR, Advocate (SR-12752[I] dated 24/08/2023)

ORDER

IN

CRL MP(MD) No.12151 of 2023

in

CRL RC(MD) No.926 of 2023

Date :23/08/2023

RS/MGA/SAR-(09.10.2023) 6P 5C

Madurai Bench of Madras High Court is issuing
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