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CRL MP(MD)



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

Tuesday, the Sixth day of June Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.7779 of 2023

in

CRL RC(MD) No.543 of 2023

N.SENTHAMARAI

... PETITIONER/PETITIONER

Vs

S.RENGARAJAN

... RESPONDENT/RESPONDENT

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 order passed in Crl A No.38/2022 on the file of the Sessions Judge Mahila Court, Tiruchirappalli dt.17.05.2023 and confirming the conviction and sentence order passed in STC No.369/2019 on the file of the District Munsif cum Judicial Magistrate Court, Srirengam dated 18.04.2022 pending disposal of this Criminal Revision Petition.

Prayer in CRL RC(MD). 543/ 2023 :

To allow Criminal Revision Petition by setting aside the Judgment passed in Crl A No.38/2022 on the file of the Sessions Judge, Mahila Court, Tiruchirappalli dt.17.05.2023 and confirming the conviction and sentence order passed in STC No.369/2019 on the file of the District Munsif cum Judicial Magistrate Court, Srirengam dated 18.04.2019.

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.MANIMARAN K R, 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 District Munsif cum Judicial Magistrate, Srirangam, in S.T.C.No.369 of 2019, dated 18.04.2022, which was confirmed by the learned Sessions Judge, Mahila Court, Tiruchirappalli, in Crl.A.No.38 of 2022, dated 17.05.2023.

2. The case of the complainant is that the petitioner/accused has borrowed a sum of Rs.5,00,000/- from the complainant on 19.06.2016 for the education of her children and agreed to pay the amount with interest at the rate of 18% per annum within six months from the date of loan, that thereafter the petitioner did not pay the amount, that the complainant made several demands to the petitioner for repayment of the amount, that finally, the petitioner



has issued a cheque bearing No.505055 dated 01.03.2018 on Trichy Central Co-Operative Bank, Theppakulam Branch, that when the complainant has presented the cheque for collection through his Indian Overseas Bank, Tiruvanaikovil Branch on 15.03.2018, the same was dishonored on 16.03.2018 with reason "Insufficient Funds", that the complainant has then sent a legal notice dated 22.03.2018 to the petitioner demanding repayment of the amount covered by the cheque, that the petitioner after receiving the notice, has sent a reply notice disputing the liability and the issuance of the cheque 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 her to undergo one year simple imprisonment and to pay a compensation of Rs.5,00,000/- to the complainant within a period of one month from the date of that judgment, in default, to undergo three months simple imprisonment.

4. Challenging the above said conviction and sentence, the petitioner has filed an appeal in CrI.A.No.38 of 2022 on the file of the learned Sessions Judge, Mahila Court, Tiruchirappalli. The learned Sessions Judge, by confirming the conviction and sentence, has modified the quantum of compensation from Rs.5,00,000/- to Rs.3,50,000/-. 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. This Court has carefully considered the contentions put forth by the learned counsel appearing 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 **50% of compensation amount** on or before **05.07.2023** to the credit in S.T.C.No.369 of 2019 on the file of the learned District Munsif cum Judicial Magistrate, Srirangam, failing which the sentence suspended shall automatically dismissed and the concerned police 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 District Munsif cum Judicial Magistrate, Srirangam;

(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 she is not able to appear before the trial Court on any day, she 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 her absence, as directed by the trial Court.

sd/-

06/06/2023

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/06/2023

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

csm

TO

- 1 THE SESSIONS JUDGE, MAHILA COURT, TIRUCHIRAPPALLI.
- 2 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE, SRIRANGAM.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TRICHY DISTRICT.

+1 CC to M/s.K.R.MANIMARAN, Advocate (SR-8101[I] dated 06/06/2023)

ORDER IN
CRL MP(MD) No.7779 of 2023
in
CRL RC(MD) No.543 of 2023
Date :06/06/2023