



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

Friday, the Twenty Third day of June Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

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Crl.M.P. (MD)No.8929 of 2023

in

Crl.R.C. (MD)No.630 of 2023

KANCHANADEVI

... PETITIONER / PETITIONER

Vs

ASHOKAN

... 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 passed in CA.21 of 2020 on the file of the learned Fast Track Mahila Court, Sivagangai dated 31.01.2023 confirming the judgment dated 25.02.2020 in STC.No.10 of 2019 on the file of the learned Judicial Magistrate Court, Devakottai and release the petitioner/appellant on bail pending disposal of the above criminal revision petition.

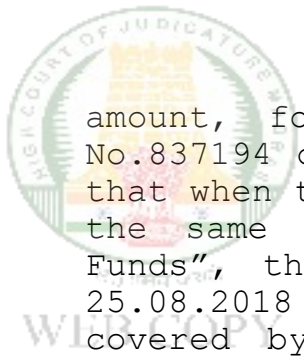
Prayer in CRL RC(MD). 630/ 2023 :

To call for the records in CA.21 of 2020 on the file of the learned Fast Track Mahila Court, Sivagangai dated 31.01.2023 confirming the conviction and sentence of six months SI, Fine Rs.205000/- default three months Simple Imprisonment by the judgment dated 25.02.2020 in S.T.C.No.10 of 2019 on the file of the Learned Judicial Magistrate Court, Devakottai and set aside the same and acquit the petitioner/accused.

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.JEYAPRAKASH C, 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, Devakottai, in S.T.C.No.10 of 2019, dated 25.02.2020, which was confirmed by the learned Sessions Judge, Fast Track Mahila Court, Sivagangai, in Crl.A.No.21 of 2020, dated 31.01.2023.

2. The case of the complainant is that the petitioner/accused has borrowed a sum of Rs.2,00,000/- from the complainant for her family and medical expenses and agreed to repay the said amount within 6 months, that since the petitioner did not pay the amount, the complainant made demand to the petitioner for repayment of the



amount, for which, the petitioner has issued a cheque No.837194 dated 14.08.2018 drawn on Canara Bank, Devakottai Branch, that when the complainant has presented the cheque for collection on the same day, the same was returned with reason "Insufficient Funds", that the complainant has then sent a legal notice dated 25.08.2018 to the petitioner demanding repayment of the amount covered by the cheque and the same was returned as "Left" on 27.08.2018, that thereafter the petitioner has failed to repay the amount and also failed to reply the 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 her to undergo 6 months simple imprisonment and to pay a fine of Rs.5,000/- and compensation of Rs.2,00,000/-, in default, to undergo 3 months simple imprisonment.

4. Challenging the above said conviction and sentence, the petitioner has filed an appeal in Crl.A.No.21 of 2020 on the file of the learned Sessions Judge, Fast Track Mahila Court, Sivagangai. 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 the petitioner has already deposited Rs.40,000/- being 20% of the compensation amount before the appellate Court. He would further 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 the remaining compensation amount** on or before **18.07.2023** to the credit in S.T.C.No.10 of 2019 on the file of the



learned Judicial Magistrate, Devakottai, failing which sentence suspended shall automatically be 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;

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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 learned Judicial Magistrate Court, Devakottai;

(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.

9. Post the matter on **19.07.2023** 'for reporting compliance'.

sd/-

23/06/2023

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27/06/2023

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

TO

1 THE SESSIONS JUDGE, FAST TRACK MAHILA COURT, SIVAGANGAI
2 THE JUDICIAL MAGISTRATE, DEVAKOTTAI.
3 THE CHIEF JUDICIAL MAGISTRATE
SIVAGANGAI DISTRICT.

COPY TO:

THE SECTION OFFICER,
CRIMINAL SECTION, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

Crl.M.P. (MD) No.8929 of 2023
in

Crl.R.C. (MD) No.630 of 2023

Date :23/06/2023

CSM

MK/VR/SAR /27.06.2023 3P 5C

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