



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

Friday, the Sixteenth day of June Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.8506 of 2023
in
CRL RC (MD) No.497 of 2023

GOMATHY ... Petitioner / Petitioner / Accused

Vs

S.JAGADEESAN ... Respondent / 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 exestuation of sentence of conviction order dt 31.10.2022 in STC No.57/2020 of FTC JM Pattukottai and release petitioner on bail til the disposal of this Crl R.C(MD).No.497/2023 by this Honourable Court.

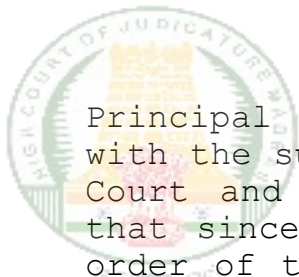
Prayer in CR RC(MD) No.497 of 2023:

To allow the Criminal Revision Petition by set aside the order of Rejection of unfiled Appeal CFR No.13377/2023 in UF CA Dated 10.04.2023 passed by the Principal Sessions Judge, Thanjavur with a direction to take up the appeal on file and proceed in accordance with law.

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.BALASUBRAMANIAN N, Advocate for the petitioner, the court made the following order:-

The Criminal Miscellaneous Petition has been filed to suspend the execution of sentence of conviction, order dated 31.10.2022 in S.T.C.No. 57 of 2020 Fast Track Judicial Magistrate, Pattukottai and release the petitioner on bail till the disposal of the revision.

2. The learned counsel for the petitioner would submit that the petitioner was convicted by the learend Judicial Magistrate, Fast Track Court, Pattukottai, for the offence under Section 138 of Negotiable Instruments Act and was sentenced to undergo 6 months simple imprisonment and to pay compensation of Rs.7,00,000/-, in default to undergo one month simple imprisonment; that the trial Court has suspended the sentence till 29.11.2022 ; that subsequently, the petitioner has preferred an appeal before the



Principal Sessions Court; that since the petitioner did not comply with the suspension order, NBW was ordered to be issued by the trial Court and that the learned Principal Sessions Judge by observing that since NBW is pending and condition in the interim suspension order of the trial Court has not been complied with, the appellate Court is not able to take the appeal on file, has rejected the unfiled appeal.

3. The learned counsel appearing for the petitioner would submit that an appeal is a legal right conferred upon the parties carrying with it their right of rehearing on law as well as fact and hence, the Principal Sessions Court has committed grave error in rejecting the appeal. He would further submit that at the time of presenting appeal no warrant was pending against the petitioner/appellant; that the petitioner had obtained suspension of sentence order in C.M.P.No.1839 of 2022 on 31.10.2022; that the trial Court, by imposing certain conditions and direction to pay the compensation amount within two months, has suspended the sentence till 29.11.2022; that the appeal was presented on 29.11.2022 within 30 days from the date of conviction and that the trial Court has returned the appeal regarding the suspension of sentence and finally rejected the appeal.

4. The learned counsel for the petitioner would further submit that complaint with conditions imposed in the interim suspension order is nothing to do with the maintainability of the appeal and hence, the petitioner is constrained to prefer the present revision challenging the order of the Principal Sessions Court, rejecting his appeal.

5. Heard the learned counsel for the petitioner and also perused the records.

6. As rightly contended by the learned counsel for the petitioner there are arguable points involved in the criminal revision and taking into the peculiar facts and circumstances of the case, this Court is of the considered view that the petitioner is to be granted suspension of sentence.

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

(i) The petitioner shall deposit 50 % of the compensation amount on or before 13.07.2023 to the credit in S.T.C.No.57 of 2020 Judicial Magistrate, (Fast Track Court) Pattukottai, failing which the sentence suspended shall automatically be 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 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, (Fast Court) , Pattukottai;

(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/-

16/06/2023

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

DAS

To

1.The Principal Sessions Judge,
Thanjavur.

2.The Judicial Magistrate,
Fast Track Court, Pattukottai.

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

+1 CC to M/s.N.BALASUBRAMANIAN, Advocate (SR-8938[I] dated
16/06/2023)

ORDER

IN

CRL MP(MD) No.8506 of 2023
in

CRL RC (MD) No.497 of 2023

Date :16/06/2023

ED/CG/SAR- (30/06/2023) 3P 5C