



CRL MP(MD) No.10396 of 2023

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

Thursday, the Twentieth day of July Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN
CRL MP(MD) No.10396 of 2023
IN
CRL RC(MD) No.769 of 2023

SUBBAIAH ... Petitioner / Petitioner / Appellant / Respondent

Vs

JEGANATHAN ... Respondent / Respondent / Respondent / Petitioner

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 by the Learned Fast Track Magistrate, Srivilliputhur in CC.No.670 of 2019 dt.27.1.2022 which was confirmed by the Learned Principal District and Sessions Court, Virudhunagar District at Srivilliputhur in CRL A No.24 of 2020 dated 29.11.2022, pending disposal of the main Revision Petition.

Prayer in CRL RC(MD). 769/ 2023 :

To call for the records pertaining to the Judgment of conviction passed by the Learned Principal District and Sessions Court, Virudhunagar District at Srivilliputhur in Crl.A.No.24 of 2020 dt.29.11.2022 by confirming the order or



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conviction sentence passed by the learned Fast Track Magistrate, Srivilliputhur in C.C.No.670 of 2019 dated 27.01.2020 and set aside the same.

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.SURYA S, Advocate for the petitioner, while admitting the Criminal Revision Petition, the court made the following order:-

This petition is filed to suspend the sentence imposed by the learned Principal District and Sessions Court, Virudhunagar, in CrI.A.No.24 of 2020 dated 29.11.2022, in confirming the conviction and sentence imposed by the learned Fast Track Magistrate, Srivilliputhur, in C.C.No.670 of 2019, dated 27.01.2022, pending disposal of the main Revision.

2. The learned counsel for the petitioner would submit that the petitioner was convicted by the learned Fast Track Magistrate, Srivilliputhur, for the offence under Section 138 r/w 142 of Negotiable Instruments Act, and sentenced him to undergo 2 years Simple Imprisonment and also to pay a fine of Rs.5,000/- in default, to undergo 3 months Simple Imprisonment. The learned Principal District and Sessions



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Court, Virudhunagar, dismissed the appeal filed by the petitioner, in Crl.A.No.24 of 2020.

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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. Hence, he seeks for the suspension of sentence.

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 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.



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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 20% of the Cheque amount to the credit of C.C.No.670 of 2019 on the file of the learned Fast Track Magistrate, Srivilliputhur, within a period of four weeks from the date of receipt of a copy of this order, 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 learned Fast Track Magistrate, Srivilliputhur,;

(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



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month i.e., on the first working day of every English calendar month
at 10.30 a.m., until further orders.

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sd/-
20/07/2023

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/07/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSS

To

1.The Principal District and Sessions Judge,
Virudhunagar at Srivilliputhur.

2.The Fast Track Magistrate,
Srivilliputhur.

3.Do through the Chief Judicial Magistrate,
Virudhunagar District at Srivilliputhur.

+1 CC to M/s.S.SURYA, Advocate (SR-10967[I] dated 20/07/2023)

ORDER
IN
CRL MP(MD) No.10396 of 2023
IN
CRL RC(MD) No.769 of 2023
Date :20/07/2023

ED/DD/SAR- (21/07/2023) 5P / 5C

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