



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

Friday, the Fourteenth day of July Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN
CRL MP(MD) No.10129 of 2023

in
CRL RC(MD) No.738 of 2023

SAMUVEL

... Petitioner / Petitioner

Vs

VAITHILINGAM

... 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 made in Crl.A No.61/2021 dated 25.08.2022 on the file of the I Additional District and Sessions Court (PCR Court), Trichirappalli, conforming the Order of conviction made in STC No.21/2019 dated 13.09.2021 on the file of the Judicial Magistrate, Thuraiyur pending disposal of the Revision Petition.

Prayer in CRL RC(MD). 738/ 2023 :

To call for the records in pertaining to the order made in Crl.A No.61/2021 dated 25.08.2022 on the file of the I Additional District and Sessions Court (PCR Court), Trichirappalli, conforming the Order of conviction made in STC No.21/2019 dated 13.09.2021 on the file of the Judicial Magistrate, Thuraiyur, and set aside the same as illegal and allow this revision.

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.VADIVELAN T, 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 I Additional District and Sessions Court (PCR Court), Trichirappalli in Crl.A.No.61 of 2021, dated 25.08.2022, in confirming the conviction and sentence imposed by learned Judicial Magistrate, Thuraiyur, in S.T.C.No.21 of 2019, dated 13.09.2021, pending disposal of the Criminal Revision.

2. The learned counsel for the petitioner would submit that the petitioner was convicted by the learned Judicial Magistrate, Thuraiyur, under Section 255(2) Cr.P.C., for the offences under Section 138 Negotiable Instrument Act, 1881, sentenced to undergo Simple Imprisonment for a period of 6 months and to pay the compensation of Rs.4,00,000/- to the complainant under Section 257(2) Cr.P.C., and in default, sentenced to undergo Simple



Imprisonment for a period of 3 months. The learned I A District and Sessions Court (PCR Court), Trichirappalli, dismissed the appeal filed by the petitioner in Crl.A.No.61 of 2021, dated 25.08.2022.

3. The learned counsel for the petitioner submitted that the petitioner did not make any borrowal from the complainant. Even as per the case of the respondent that the petitioner borrowed money from the respondent to meet out his son's marriage expenditure. But, on the date of son's marriage, more than Rs.30,64,000/- was available on the account of the petitioner. Hence, he prayed for suspending the sentence imposed upon the petitioner.

4. This Court has carefully considered the submission made by the counsel for the petitioner and also perused the materials available on record.

5. The Submission of the learned counsel for the petitioner that during the relevant period of his son's marriage, more than Rs.30,64,000/- available in his account and hence, there was no necessity to borrow money from the claimant make out the *prima facie* case to grant suspension of sentence of imprisonment imposed by both the Courts below. Hence, this Court is inclined to grant suspension of sentence and accordingly this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the revision with the following conditions:-

(i) The petitioner is directed to be enlarged on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Thuraiyur.

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the concerned officer may obtain a copy of their Aadhar or Bank Pass Book to ensure their identity.

(iii) The petitioner shall appear before the trial Court once in a month i.e., on the first working day of every month at 10.30 a.m. pending revision.

sd/-
14/07/2023

/ TRUE COPY /

17/07/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



To

1.The I Additional District and Sessions Judge (PCR COURT),
Trichirappalli.

2.The Judicial Magistrate,
Thuraiyur.

3.Do through the Chief Judicial Magistrate,
Trichy District.

4.The Superintendent,
Central Prison, Trichy.

Copy to:

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court, Madurai.
(Call for records purpose)

ORDER

IN

CRL MP(MD) No.10129 of 2023
in

CRL RC(MD) No.738 of 2023

Date :14/07/2023

ED/AKM/SAR- (17/07/2023) 3P 6C