



CRL MP(MD) No.14567 of 2023

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

Monday, the Sixteenth day of October Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL.M.P(MD).No.14567 of 2023

in

CRL.R.C(MD).No.1142 of 2023

C.SURULI

... PETITIONER/ PETITIONER

Vs

N.ZOOMAN AHMED

... RESPONDENT/ RESPONDENT

Criminal Miscellaneous 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 and conviction imposed by the learned Judicial Magistrate (Fast Track court), Uthamapalayam dated 24.01.2023 made in S.T.C. No.44 of 2022 and which is dismissed for default by the leaned Additional District Court (Fast Track Court) Theni in C.A.No. 27 of 2023 dated 12.06.2023 pending final disposal of the above revision petition and thus render justice.

Prayer in CRL RC(MD). 1142/ 2023 :

To call for the records pertaining to the impugned Judgment and conviction passed by the learned Judicial Magistrate, Fast Track court, Uthamapalayam, dt. 24.01.2023 in S.T.C No. 44 of 2022 and on the file of Additional District Court (Fast track Court) Theni in C.A.No. 27 of 2023 dated 12.06.2023 which was dismissed for no representation and non payment of process and set aside the same and allows the above revision petition.



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Order : This Criminal Miscellaneous petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S RAJA.M.A.M, Advocate for the petitioner, while admitting the Criminal Revision Case, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence passed by the learned Judicial Magistrate (Fast Track Court), Uthamapalayam, in S.T.C.No.44 of 2022 dated 24.01.2023, which was confirmed in Criminal Appeal No.27 of 2023, dated 12.06.2023 by the learned Additional District Court (Fast Track Court), Theni, pending disposal of the Criminal Revision Case.

2. The learned counsel appearing for the petitioner submitted that the petitioner has been convicted by the trial Court for the alleged offence under Section 138 of Negotiable Instrument Act and sentenced him to undergo simple imprisonment for a period of one year and to pay a sum of Rs.4,00,000/- (Rupees four Lakhs only) within one month as compensation to the respondent, in default to undergo simple imprisonment for a period of three months in S.T.C.No.44 of 2022, on the file of the learned learned Judicial Magistrate (Fast Track Court), Uthamapalayam.

3. The learned Additional District Court (Fast Track Court), Theni, confirmed the conviction and sentence and dismissed the Criminal Appeal No.27 of 2023, dated



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12.06.2023. Challenging the same, the Criminal Revision Case has been filed before this Court along with this miscellaneous petition.

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4. It is submitted by the learned counsel for the petitioner that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

5. This Court has carefully considered the submission of the learned counsel for the petitioner and also perused the materials available on record.

6. The learned counsel 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.

7. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the revision with the following directions:-



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(i) The petitioner shall deposit 30% of the Cheque amount to the credit of S.TC.No.44 of 2022 on the file of the learned Judicial Magistrate (Fast Track Court), Uthamapalayam, within a period of six weeks from the date of receipt of a copy of this order, failing which the sentence suspended shall automatically 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 Judicial Magistrate (Fast Track Court), Uthamapalayam.

(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.



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(v) On such deposit, the learned Judicial Magistrate (Fast Track Court), Uthamapalayam, shall re-deposit the said sum in a Nationalised Bank, so that, the amount accrues interest and the same can be disbursed depending upon the outcome of the Criminal Revision Case in Crl.R.C.No.1142 of 2023.

8. Post the matter on 29.11.2023 for reporting compliance.

sd/-
16/10/2023

/ TRUE COPY /

/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

tta
TO

1 The Additional District Judge (Fast Track Court)
Theni.

2 The Judicial Magistrate (Fast Track court), Uthamapalayam.

3 Do through the Chief Judicial Magistrate,
Theni.



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Copy To
The Section Officer
Criminal Section
Madurai Bench of Madras High Court,
Madurai.

ORDER
IN
CRL.M.P(MD).No.14567 of 2023
in
CRL.R.C(MD).No.1142 of 2023
Date :16/10/2023

SSA/VRS/19.10.2023/6P/5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023