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

Friday, the Fifteenth day of September Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

CRL MP(MD) No.13288 of 2023

in

CRL RC(MD)No.1032 of 2023

D.MUTHUMARI

... PETITIONER/ACCUSED

Vs

R.SAIRA BANU

... RESPONDENT/COMPLAINANT

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 of Imprisonment imposed by Principal District and Sess. Judge, Virudhunagar District at Srivilliputhur in CA.No.135 of 2018 by the Judgment dt.26.7.2022 against the Judgment dated 3.11.2018 passed by the Learned Judicial Magistrate-I, Sivakasi in C.C.No.321 of 2016 and enlarge the Petitioner on bail, pending disposal of the abovesaid Criminal Revision.

Prayer in CRL RC(MD). 1032/ 2023 :

To Set aside the Judgment and conviction order passed by the Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur dt.26.7.2022 against the Judgment dt.3.11.2018 passed by the Learned Judicial Magistrate No.I, Sivakasi in C.C.No.321 of 2016 and acquit the accused for the offence under Section 138 of Negotiable Instruments Act.

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.ANANDHA RAJAGOPAL S, Advocate for the petitioner while admitting the CRL RC the Court made the following order:-



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This petition is filed to suspend the sentence imposed by the learned Principal District and Session Judge, Srivilliputhur, Virudhunagar District, in C.A.No.135 of 2018 dated 26.07.2022, by confirming the judgment rendered by the learned Judicial Magistrate No-I, Sivakasi, in C.C.No.321 of 2016, dated 03.11.2018, pending disposal of the main Revision.

2. The learned counsel for the petitioner would submit that the petitioner was convicted by the learned Judicial Magistrate No-I, Sivakasi, for the offence punishable under Section 138 of the Negotiable Instruments Act, and sentenced him to undergo simple imprisonment for 1 year and also to pay a Compensation of Rs.6,00,000/- (Rupees Six Lakhs Only) to the complainant in default, to undergo 3 months simple imprisonment. Challenging the same, the petitioner herein filed CrI.A.No.135 of 2018, before the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur, the same was dismissed on 26.07.2022. Aggrieved over the same, he filed the Criminal Revision Case, along with this present Criminal Miscellaneous Petition before this Court.

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 have not considered the evidence in proper prospective and hence, the judgments are suffered from perversity. It is pertinent to state that now, the



petitioner is ready to pay a sum of Rs.3,00,000/- to show his *bona fide*. 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 petitioner is now ready to deposit a sum of Rs.3,00,000/- to show his *bona fide* 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.

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 a sum of Rs.3,00,000/- **of the compensation amount** to the credit of C.C.No.321 of 2016, on the file of the learned Judicial Magistrate No-I, Sivakasi, within a period of **four 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/-



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(Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the Judicial Magistrate Court No-I, Sivakasi;

(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.

(v) The learned trial Judge is hereby directed to deposit the said amount in any one of the Nationalized Bank in interest bearing account.

sd/-
15/09/2023

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/09/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SBN

TO

1 THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

2 THE JUDICIAL MAGISTRATE NO.I
SIVAKASI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR



WEB COPY +1 CC to M/s.S.ANANDHA RAJAGOPAL, Advocate (SR-13829[I] dated 19/09/2023)

ORDER
IN
CRL MP(MD) No.13288 of 2023
in
CRL RC(MD)No.1032 of 2023
Date :15/09/2023
(1/2)

SS/JGB/25/09/2023/5P/5C

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