



CRL MP(MD) No.12525 of 2023

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

Wednesday, the Thirtieth day of August Two Thousand and Twenty Three

PRESENT

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

CRL.M.P.(MD)No.12525 of 2023

in

CRL.R.C.(MD)No.966 of 2023

SIVAKUMAR

... PETITIONER/ ACCUSED

Vs

KUMAR

... 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 imposed on the petitioner in C.C.No.230 of 2017 on the file of learned Judicial Magistrate II,Trichy dated 20.09.2021 confirmed by the Honble III Additional District and Sessions Judge,Trichy in Crl.A.No.63 of 2021 dated 06.06.2023, pending disposasl of the main Criminal Revision Petition.

PRAYER IN CRL.R.C.(MD)No.966 of 2023:

Criminal Revision Case filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to call for the records pertaining to the order passed in CRL A.No.63 of 2021 on the file of the Hon'ble III-Additional District and Sessions Judge, Trichy, dated 06.06.2023 confirming the Judgment passed in C.C.No.23 of 2017 dated 20.09.2021 on the file of the Judicial Magistrate II, Trichy and set aside the same as illegal.

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.SIVABALAN.K, Advocate for the petitioner, While admitting the Criminal Revision Case, the court made the following order:-

<https://www.mhc.tn.gov.in/judis>



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This petition is filed to suspend the sentence imposed by the learned III Additional District and Sessions Judge, Trichy, in Crl.A.No.63 of 2021 dated 06.06.2023, in confirming the conviction and sentence imposed by the learned Judicial Magistrate II, Trichy, in C.C.No.230 of 2017, dated 20.09.2021, 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 II, Trichy, for the offence under Section 138 of Negotiable Instruments Act, and sentenced him to undergo 1 year Simple Imprisonment and also to pay the cheque amount of Rs.3 lakhs as compensation to the complainant. The learned III Additional District and Sessions Judge, Trichy, dismissed the appeal filed by the petitioner, in Crl.A.No.63 of 2021.

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 he has not issued any cheque to any one at any point of time. Hence, the issuance of cheque is in



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question. The said fact was already substantiated by the examination of D.W.1. Both the Courts below failed to consider the same. He further submitted that he is ready to deposit a sum of Rs.1,00,000/- before the Court below 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 undertaking given by the learned counsel for the petitioner that the petitioner is ready to deposit a sum of Rs.1,00,000/- before the Court below 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:-



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(i) The petitioner shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh Only) to the credit of C.C.No.230 of 2017, on the file of the learned Judicial Magistrate II, Trichy, 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 Judicial Magistrate II, Trichy;

(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



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10.30 a.m., until further orders.

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

sd/-
30/08/2023

/ TRUE COPY /

01/09/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

dss

TO

1. THE JUDICIAL MAGISTRATE II, TRICHY.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY.

3.THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE,TRICHY.

COPY TO

THE REGISTRAR(JUDICIAL),
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.



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WEB COPY +1 CC to M/s.K.SIVABALAN, Advocate (SR-12966[I] dated 30/08/2023)

ORDER
IN
CRL.M.P.(MD)No.12525 of 2023
in
CRL.R.C.(MD)No.966 of 2023
Date :30/08/2023

RK (01/09/2023) 6P / 6C

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