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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.13423 of 2023
in
CRL RC(MD)No.1041 of 2023

B.KRISHNANATH

... PETITIONER/PETITIONER

Vs

P.G.SYAMALA KUMAR

... 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 of Imprisonment by the Learned Additional District and Sessions Court, Padmanabhapuram in CrI.A.No.73 of 2019 by judgment dt.5.11.2022 by confirming the conviction and sentence of imprisonment imposed by the Learned Judicial Magistrate II, Padmanabhapuram in S.T.C.No.24 of 2018 by the judgment dated 21.03.2019, and enlarged the petitioner on bail pending disposal of this Criminal Revision.

Prayer in CRL RC(MD). 1041/ 2023 :

To call for the records and set aside the conviction imposed by the Learned Additional District and Sessions Court, Padmanabhapuram in CrI.A.No.73 of 2019 dated 5.11.2022 by confirming the conviction and sentence imposed by the Learned Judicial Magistrate-II, Padmanabhapuram in S.T.C.No.24 of 2018 dated 21.03.2019.

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.RAMESH RAJA P.T., Advocate for the petitioner and of Mr.APPAJI.C.K.M, Advocate on behalf of the Respondent while admitting the Criminal Revision Petition., the Court made the following order:-



This petition is filed to suspend the sentence imposed by the learned Additional District and Sessions Judge, Padmanabhapuram, in CrI.A.No.73 of 2019 dated 05.11.2022, by confirming the conviction and sentence of imprisonment imposed by the learned Judicial Magistrate No-II, Padmanabhapuram, in S.T.C.No.24 of 2018, dated 21.03.2019, 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-II, Padmanabhapuram, 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.1,50,000/- (Rupees One Lakh and Fifty Thousand Only) to the complainant in default, to undergo 3 months simple imprisonment. Challenging the same, the petitioner herein filed CrI.A.No.73 of 2019, before the learned Additional District and Sessions Judge, Padmanabhapuram, the same was dismissed on 05.11.2022. 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. Now, the petitioner is ready to pay a sum



of Rs.50,000/- to show his *bona fide*. Hence, he seeks for the suspension of sentence.

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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.50,000/-. Further, he would submit that the petitioner was arrested on 12.08.2023 and confined at Central Prison, Palayamkottai, 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.50,000/- **of the compensation amount** to the credit of S.T.C.No.24 of 2018, on the file of the learned Judicial Magistrate No-II, Padmanabhapuram, 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 learned Judicial Magistrate No-II, Padmanabhapuram;

(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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15/09/2023

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

SBN

TO

1 THE ADDITIONAL DISTRICT AND
SESSIONS JUDGE, PADMANABHAPURAM.

2 THE JUDICIAL MAGISTRATE NO.II
PADMANABHAPURAM.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANNIYAKUMARI DISTRICT AT NAGERCOIL.



4 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO:

- 1 THE REGISTRAR(JUDICIAL),
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.
- 2 THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI. (CALL FOR THE ORIGINAL RECORDS)

+1 CC to M/s.P.T.RAMESH RAJA, Advocate (SR-13726[I] dated 15/09/2023

ORDER
IN
CRL MP(MD) No.13423 of 2023
in
CRL RC(MD)No.1041 of 2023
Date :15/09/2023

SS/15/09/2023/5P/9C

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