



CRL MP(MD) No.13453 of 2023

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

Wednesday, the Twentieth day of September Two Thousand and Twenty Three
PRESENT

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

CRL MP(MD) No.13453 of 2023

in

CRL RC(MD)No.1044 of 2023

KANIRAJ

... PETITIONER/ APPELLANT/ ACCUSED

Vs

MADASAMY

... RESPONDENT/ 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 conviction and sentence imposed in CA No.80/2018 on the file of the Principal District and Sessions Court, Virudhunagar District at Srivilliputhur dt.18/8/2023 in confirming the judgment made in CC No.78/2014 on the file of the Learned Judicial Magistrate Court No.II, Sathur dated 20.06.2018.

Prayer in CRL RC(MD). 1044/ 2023 :

To call for the records pertaining to the case in CA No.80/2018 on the file of the Principal District and Sessions Court, Virudhunagar District at Srivilliputhur and CC no.78/2014 on the file of the learned JM II, Sathur and set aside the conviction and sentence passed in C.A.No.80 of 2018 on the file of the Principal District and Sessions Court, Virudhunagar District at Srivilliputhur dated 18.08.2023 in confirming the judgment made in C.C.No.78 of 2014 on the file of the learned Judicial Magistrate Court No.II, Sathur dated 20.06.2018 and to allow this criminal revision.

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.KARUNANIDHI R, Advocate for the petitioner while admitting the Criminal Revision Case., 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.80 of 2018 dated 18.08.2023, by confirming the judgment rendered by the learned Judicial Magistrate No-II, Sathur, in C.C.No.78 of 2014, dated 20.06.2018, 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-II, Sathur, 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.5,00,000/- (Rupees Five Lakhs Only) to the complainant in default, to undergo 6 months simple imprisonment. Challenging the same, the petitioner herein filed Crl.A.No.80 of 2018, before the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur, the same was dismissed on 18.08.2023. 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



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hence, the judgments are suffered from perversity. It is pertinent to state that now, the petitioner is ready to pay a sum of Rs.2,00,000/- 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. The petitioner disputed the issuance of cheque stating that he has not issued any cheque to the defacto complainant and he has issued a cheque to one Sankar. In addition to that fact that the petitioner is now ready to deposit a sum of Rs.2,00,000/- 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.2,00,000/- **of the compensation amount** to the credit of C.C.No.78 of 2014, on the file of the learned Judicial Magistrate No-II, Sathur, within a period of **four weeks** from the date of receipt of a copy of this order, failing which the sentence suspended shall automatically



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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 Judicial Magistrate Court No-II, Sathur;

(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/-
20/09/2023

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

SBN



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TO
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- 1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
- 2 THE JUDICIAL MAGISTRATE NO.II
SATHUR.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

+1 CC to M/s.R.KARUNANIDHI, Advocate (SR-13958[I] dated 21/09/2023)

ORDER
IN
CRL MP(MD) No.13453 of 2023
in
CRL RC(MD)No.1044 of 2023
Date :20/09/2023

SS/MGA/05/10/2023/5P/5C

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