



CRL MP(MD) No.13134 of 2023

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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.13134 of 2023

IN

CRL RC(MD) No.1020 of 2023

GURUSAMY

... PETITIONER/PETITIONER

Vs

1 VIJAYALAKSHMI

2 MINOR K.THAMARAISELVI

(REPRESENT THROUGH 1st RESPONDENT WHO IS
THE MOTHER AND GUARDIAN OF 2nd RESPONDENT)

... RESPONDENTS/RESPONDENTS

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 upon the petitioner Cr.MP.No.3326/2023 in MC No.21/2018 dt.21/7/2023 on the file of the Judicial Magistrate, Veda sandur and enlarge the petitioner on bail pending disposal of the above Criminal Revision Petition.

PRAYER IN CRL.RC(MD).1020/2023:

Pleased to call for the records relating to the judgment passed by the Learned Additional District Munsif cum Judicial Magistrate, Veda sandur in CrI.MP.No.3326/2023 in MC.No.21 of 2018 dated 21.07.2023, in which the petitioner was sentenced to undergo simple imprisonment for the 27 months i.e.from 21-07-2023 to 08-10-2025(810 days) and set aside the same and allow this Revision Petition.



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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.AZHAGESH B, Advocate for the petitioner, While admitting the Criminal Appeal, the court made the following order:-

This petition has been filed to suspend the sentence imposed on the petitioner in Cr.M.P.No.3326 of 2023 in M.C.No.21 of 2018 dated 21.07.2023, on the file of the Judicial Magistrate, Vendasandur and enlarge the petitioner on bail pending disposal of the criminal revision case.

2. The first respondent is the wife of the petitioner, she filed a maintenance case in M.C.No.21 of 2018, to claim maintenance for herself and her child/second respondent. The petitioner contested the same and the learned trial Judge granted monthly maintenance of Rs.5,000/- to the second respondent alone, by order dated 05.06.2023. Thereafter, the petitioner never paid the amount. Hence, the first respondent filed a petition in Cr.M.P.No.3326 of 2022 in M.C.No.21 of 2018, under Section 125(3) of the Cr.P.C., to execute the award. The same was allowed by the Court below by imposing the sentence of simple imprisonment for 810 days. Challenging the same, the petitioner filed this revision case.

3. The learned counsel for the petitioner would submit that the petitioner was convicted by the learned Judicial Magistrate, Vendasandur, and sentenced him to undergo simple imprisonment for 27 months, for default in making the maintenance



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amount. Aggrieved over the same, he filed the Criminal Revision Case, along with this present Criminal Miscellaneous Petition before this Court.

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4. The learned counsel for the petitioner submitted that there are some arguable points involved in the criminal revision and the learned trial Judge has not considered the evidence in proper prospective and hence, the judgments are suffered from perversity. It is pertinent to state that he has already deposited a sum of Rs.2,00,000/- before the trial Court. Now, the petitioner is ready to pay a sum of Rs.1,00,000/- to show his bona fide. Hence, he seeks for the suspension of sentence.

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

6. Considering the fact that the petitioner is now ready to deposit a sum of Rs.1,00,000/-. Further, he would submit that the petitioner was arrested on 21.07.2023 and confined in Central Prison, Madurai 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.

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 a sum of Rs.1,00,000/- of the maintenance amount to the credit of M.C.No.21 of 2018, on the file of the learned Additional District Munsif-cum-Judicial Magistrate, Vendasandur, 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/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Additional District Munsif-cum-Judicial Magistrate, Vendasandur;

(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 first respondent is permitted to withdraw the same.

sd/-
15/09/2023

/ TRUE COPY /

15/09/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SBN
TO
1 THE ADDITIONAL DISTRICT MUNSIF
CUM JUDICIAL MAGISTRATE, VEDASANDUR.

2 THE JUDICIAL MAGISTRATE, VEDASANDUR.

3 DO THROUGH THE CHIEF JUDICIAL
MAGISTRATE, DINDIGUL DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
COPY TO:
THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.(CALL FOR ORIGINAL RECORDS)

+1 CC to M/s.B.AZHAGESH, Advocate (SR-13778[I] dated 15/09/2023)

ORDER IN
CRL MP(MD) No.13134 of 2023
IN
CRL RC(MD) No.1020 of 2023
Date :15/09/2023

SA/DD/SAR. /15.09.2023/5P/7C

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