



CRL MP(MD) No.14767 of 2023

WEB COPY

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

Wednesday, the Eighteenth day of October Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.14767 of 2023

IN

CRL RC(MD)No. 1159 of 2023

A.ARUN

... PETITIONER/PETITIONER

Vs

A.SELVA 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 imposed by the Principal District and Sessions court, Virudhunagar District at Srivilliputhur in Crl A No. 4/2020 dt. 04.09.2023 in confirming the conviction and sentence imposed by the Judicial Magistrate court No.I, Sivakasi, Virudhunagar District in C.C.No. 12/2018 dated 28.02.2020 pending disposal of the Criminal Revision Petition.

Prayer in CRL RC(MD)No. 1159/ 2023 :

To call for the records and set aside the conviction and sentence imposed by the Principal District and Sessions Court, Virudhunagar District at Srivilliputhur in Crl A No. 44/2020 on 04.09.2023 in confirming the conviction and sentence imposed by the Judicial Magistrate Court No.I, sivakasi, Virudhunagar District in C.C.No. 12/2018 dated 28.02.2020 pending disposal of the Criminal Revision Petition.

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

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



CRL MP(MD) No.14767 of 2023

M/S.JOTHI BASU M, Advocate for the petitioner, while admitting the Criminal Revision Case, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence passed by the Judicial Magistrate Court No.I, Sivakasi, Virudhunagar District, in C.C.No.12 of 2018, dated 28.02.2020, which was confirmed in Criminal Appeal No.4 of 2020, dated 04.09.2023 by the Principal District and Sessions Court, Virudhunagar District at Srivilliputtur, pending disposal of the Criminal Revision Case.

2. The learned counsel appearing for the petitioner submitted that the petitioner has been convicted by the trial Court for the alleged offence under Section 138 of Negotiable Instrument Act and sentenced him to undergo simple imprisonment for a period of one year and to pay a sum of Rs.4,50,000/- (Rupees Four Lakhs Fifty Thousand only) as compensation to the respondent, in default to undergo simple imprisonment for a period of three months in C.C.No.12 of 2018, on the file of the learned Judicial Magistrate Court No.I, Sivakasi, Virudhunagar District.

3. The Principal District and Sessions Court, Virudhunagar District at Srivilliputtur, confirmed the conviction and sentence and dismissed the Criminal Appeal No.44 of 2020, dated 04.09.2023. Challenging the same, the Criminal Revision Case has been filed before this Court along with this miscellaneous petition.



CRL MP(MD) No.14767 of 2023

WEB COPY

4. It is submitted by the learned counsel for the petitioner that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

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

6. The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal revision and further the criminal revision is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of 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:-



CRL MP(MD) No.14767 of 2023

WEB COPY

(i) The petitioner shall deposit 20% of the **Cheque amount** to the credit of C.C.No.12 of 2018 on the file of the Judicial Magistrate Court No.I, Sivakasi, Virudhunagar District, 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 Judicial Magistrate Court No.I, Sivakasi, Virudhunagar District.

(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.



CRL MP(MD) No.14767 of 2023

WEB COPY

(v) On such deposit, the Judicial Magistrate Court No.I, Sivakasi, Virudhunagar District, shall re-deposit the said sum in a Nationalised Bank, so that, the amount accrues interest and the same can be disbursed depending upon the outcome of the Criminal Revision Case in Crl.R.C.No. 1159 of 2023.

sd/-
18/10/2023

/ TRUE COPY /

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

TTA
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.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.



CRL MP(MD) No.14767 of 2023

+1 CC to M/s.G.M.LAW OFFICE, Advocate (SR-15390[I] dated 18/10/2023)

WEB COPY

ORDER
IN
CRL MP(MD) No.14767 of 2023
IN
CRL RC(MD)No. 1159 of 2023
Date :18/10/2023

PKP/VRS/SAR- /30.10.2023/ **6P/ 6C**

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