



CRL MP(MD) No.14322 of 2023

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

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

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

**CRL.M.P(MD).Nos.14322 and 14323 of 2023
in
CRL.R.C(MD).No.1126 of 2023**

G.STALIN

... PETITIONER/PETITIONER

Vs

N.BHARATH

... RESPONDENT/RESPONDENT

Prayer in CRL MP(MD)No. 14322/ 2023 :

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 by the judgment dated 18.08.2023 passed in C.A No.79/2022 on the file of the I Additional Sessions Judge (FAC), Tirunelveli District confirming the judgment dated 02.11.2022 passed in STC No.132/2021 on the file of the Special Court for Exclusive Trial of Negotiable instrument Act, Tirunelveli.

Prayer in CRL MP(MD)No. 14323/ 2023 :

To exempt the petitioner to surrender before the Lower Appellate Court to take the judgment dt.18.08.2023 passed in C.A No.79/2022 on the file of the I Additional Sessions Judge (FAC), Tirunelveli District confirming the judgment dt.02.11.2022 passed in STC No.132/2021 on the file of the Special Court for Exclusive Trial of Negotiable instrument Act, Tirunelveli.



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Prayer in CRL RC(MD)No. 1126/ 2023 :

To call for the records of the Judgment dated 18.08.2023 passed in C.A No.79/2022 of on the file of the I Additional Sessions Judge (FAC), Tirunelveli District confirming the judgment dated 02.11.2022 passed in STC No.132/2021 on the file of the Special Court for Exclusive Trial of Negotiable instrument Act, Tirunelveli.

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

These Criminal Miscellaneous Petitions are filed to suspend the sentence passed by the Special Court for Exclusive Trial of Negotiable Instrument Act, Tirunelveli, in S.T.C.No.132 of 2021, dated 02.11.2022, which was confirmed in Criminal Appeal No.79 of 2022, dated 18.08.2023 by the learned I Additional Sessions Judge (FAC), Tirunelveli District and enlarge the petitioner on bail pending the disposal of the Criminal Revision Case and for exemption of his surrender pursuant to the aforesaid Judgment.

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 six months and to pay a sum of Rs.5,00,000/- (Rupees Five Lakhs only) as compensation to the respondent, in default to undergo simple imprisonment for a period of two months in S.T.C.No.132 of 2021, on the file of the Special Court for



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Exclusive Trial of Negotiable Instrument Act, Tirunelveli.

3. The learned I Additional Sessions Judge (FAC), Tirunelveli District, confirmed the conviction and sentence and dismissed the Criminal Appeal No. 79 of 2022, dated 18.08.2023. Challenging the same, the Criminal Revision Case has been filed before this Court along with these miscellaneous petitions.

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 submission of 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:-

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(i) The petitioner shall deposit 20% of the Cheque amount to the credit of S.TC.No.132 of 2021 on the file of the Special Court for Exclusive Trial of Negotiable Instrument Act, Tirunelveli, 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 Special Court for Exclusive Trial of Negotiable Instrument Act, Tirunelveli,

(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.

8. The petitioner is not exempted from surrendering before the trial Court and

the petitioner is directed to surrender before the Special Court for Exclusive Trial of

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Negotiable Instrument Act, Tirunelveli, within a period of six weeks from the date of receipt of copy of this order. Hence, Crl.M.P.(MD)No.14323 of 2023 is dismissed.

sd/-
11/10/2023

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

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TO

- 1 THE I ADDITIONAL SESSIONS JUDGE (FAC),
TIRUNELVELI DISTRICT.
- 2 THE SPECIAL JUDGE
FOR EXCLUSIVE TRIAL OF NEGOTIABLE
INSTRUMENT ACT,
TIRUNELVELI DISTRICT.

COPY TO
THE SECTION OFFICER, (CALL FOR RECORDS)
CRIMINAL RECORDS
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.K.SUDALAIYANDI, Advocate (SR-14991[I] dated 11/10/2023)

ORDER
IN
CRL.M.P(MD).Nos.14322 and 14323 of 2023
in
CRL.R.C(MD).No.1126 of 2023
Date :11/10/2023

PKP/DD/SAR- /18.10.2023/ 5P/ 5C
Madurai Bench of Madras High Court is issuing certified
copies in this format from 17/07/2023

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