



CRL MP(MD) No.14496 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Friday, the Thirteenth day of October Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.14496 of 2023
in
CRL RC(MD)No.1137 of 2023

A.DINAKAR

... PETITIONER/REVISION PETITIONER

Vs

A.BOOTHALINGAM PILLAI

... 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 in C.A.No.151/2017 on the file of the Additional Sessions Judge (Fast Track), Nagercoil dated 07.09.2023 confirming the judgment of conviction passed in C.C.No.136 of 2012 on the file of the Fast Track Court (Magistrate Level)No.1, Nagercoil dated 12.09.2017, and grant bail, pending disposal of the main Criminal revision Petition.

Prayer in CRL RC(MD). 1137/ 2023 :

To call for the records and to allow this Criminal Revision Petition and set aside the Judgment of conviction in C.A.No.151 of 2017 on the file of Additional Sessions Judge(Fast Track), Nagercoil dt.07.09.2023 confirming the Judgment of conviction imposed in C.C.No.136/2012 on the file of the Fast Track Court (Magistrate Level) No.1, Nagercoil dated 12.09.2017.

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.APPAJI C.K.M., Advocate for the petitioner while admitting the Criminal Revision Case., the Court made the following order:-



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This Criminal Miscellaneous Petition is filed to suspend the sentence passed by the Fast Track (Magistrate Level) No.I, Nagercoil, in C.C.136 of 2012, dated 12.09.2017, which was confirmed in Criminal Appeal No.151 of 2017, dated 07.09.2023 by the learned Additional Sessions Judge (Fast Track), Nagercoil, 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 six months and to pay a sum of Rs.4,00,000/- (Rupees four Lakhs only) as compensation to the respondent, in default to undergo simple imprisonment for a period of two months in S.T.C.No.136 of 2012, on the file of the Fast Track (Magistrate Level) No.I, Nagercoil.

3. The learned Additional Sessions Judge (Fast Track), Nagercoil, confirmed the conviction and sentence and dismissed the Criminal Appeal No.151 of 2017, dated 07.09.2023. Challenging the same, the Criminal Revision Case has been filed before this Court along with this miscellaneous petition.



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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:-

(i) The petitioner shall deposit **20% of the Cheque amount** to the credit of C.C.No.136 of 2012 on the file of the Fast Track (Magistrate Level) No.I, Nagercoil,



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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 Fast Track (Magistrate Level) No.I, Nagercoil.

(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.

sd/-
13/10/2023

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

TTA



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TO
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- 1 THE ADDITIONAL SESSIONS JUDGE,
(FAST TRACK), NAGERCOIL
- 2 THE FAST TRACK JUDGE,
(MAGISTRATE LEVEL), NAGECOIL.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

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

+1 CC to M/s.C.K.M.APPAJI, Advocate (SR-15199[I] dated 16/10/2023)

ORDER
IN
CRL MP(MD) No.14496 of 2023
in
CRL RC(MD)No.1137 of 2023
Date :13/10/2023
(2/2)

SS/VRS/SAR- /20/10/2023/5P/6C

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