



CRL MP(MD) No.15045 of 2023

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

Friday, the Twentieth day of October Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL.M.P.(MD)No.15045 of 2023

in

CRL.R.C.(MD)No.1180 of 2023

BALAMURUGAN

... PETITIONER/ PETITIONER

Vs

M.C.S.A.RAVI

... 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 of imprisonment and conviction dt.17.08.2023 made in Crl A.No.98/2021 on the file of the Learned Vth Additional District Judge Madurai confirming the judgment and conviction dt.25.08.2021 made in STC No.649/2018 passed by the learned Judicial Magistrate, Thirumangalam, pending disposal of the Criminal revision Petition.

Prayer in CRL RC(MD). 1180/ 2023 :

To call for the records and set aside the judgment dt.17.08.2023 made in Crl A No.98/2021 on the file of the learned Vth Additional District Judge Madurai confirming the judgment and conviction dt.25.08.2021 made in STC No.649/2018 passed by the learned Judicial Magistrate, Thirumangalam, acquit the petitioner and allow the Criminal Revision Petition.



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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 R.JENIFAR BIBIN, 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 learned Judicial Magistrate, Thirumangalam, in S.T.C.No.649 of 2018, dated 25.08.2021, which was confirmed in Crl.A.No.98 of 2021, dated 17.08.2023 by the learned V Additional District Judge, Madurai, 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 imprisonment for a period of one year in S.T.C.No.649 of 2018, on the file of the learned Judicial Magistrate, Thirumangalam.

3. The learned V Additional District Judge, Madurai, confirmed the conviction and sentence and dismissed the Crl.A.No.98 of 2021 for default dated 17.08.2023. 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 appearing 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 contentions put forward by the learned counsel appearing for the petitioner and also perused the materials available on record.

6. The learned counsel appearing 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.T.C.No.649 of 2018 on the file of the learned Judicial Magistrate, Thirumangalam, within a period of six weeks from the date of receipt of a copy of this order, failing which the sentence suspended shall automatically be 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 being made, the petitioner is directed to surrender before the trial Court and ordered to be released on bail on his executing 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 Judicial Magistrate, Thirumangalam.

(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



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(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) On such deposit, the learned Judicial Magistrate, Thirumangalam, 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 CrI.R.C.(MD)No.1180 of 2023.

8. Post the matter after six weeks for reporting compliance.

sd/-
20/10/2023

/ TRUE COPY /

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

csm
TO

1 The V Additional District Judge, Madurai.

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



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2 The Judicial Magistrate, Thirumangalam,.

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3 Do through the Chief Judicial Magistrate, Madurai.

COPY TO

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

+1 CC to M/s.R.JENIFAR BIBIN, Advocate (SR-15571[I] dated 20/10/2023)

ORDER
IN
CRL.M.P.(MD)No.15045 of 2023
in
CRL.R.C.(MD)No.1180 of 2023
Date :20/10/2023

SSA/JGB/30.10.2023/6P/6C

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