



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

Tuesday, the Tenth day of January Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL.M.P. (MD) No.462 of 2023
in
CRL.R.C. (MD) No.27 of 2023

VENKATACHALAM

... PETITIONER / REVISION PETITIONER

Vs

ALAGAPPAN

... RESPONDENT / RESPONDENT

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 passed in Judgement of Conviction and sentence dt.25/11/2022 in Crl.A.No.50/2018 on the file of Learned Additional District Judge, Sivaganga confirming the same by Judgement of Conviction and sentence dt.16/4/2018 in C.C.No.144/2017 on the file Learned Judicial Magistrate, Fast Track Court, Karaikudi convicting the Petitioner / Accused for offences under Section 138 of N.I.Act, and sentencing them to undergo 1 year simple imprisonment and also to pay compensation amount of Rs.2,00,000/- in default to undergo simple imprisonment of 3 months, pending disposal of the above criminal revision petition.

Prayer in CRL RC(MD). 27/ 2023 :

To call for the records relating to the Judgement of Conviction and sentence dt.25/11/2022 on Crl.A.No.50/2018 on the file of Learned Additional District Judge, Sivaganga confirming the same Judgement of Conviction and conviction dt.16/4/2018 in C.C.No.144/2017 on the file Learned Judicial Magistrate, Fast Track Court, Karaikudi and set aside the same.

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.SUNDAR SRINIVASAN R, Advocate for the petitioner, While admitting the Crl.R.C., the court made the following order:-

This petition is filed to suspend the sentence imposed by the Court of the learned Additional District and Sessions Judge, Sivagangai, in Crl.A.No.50 of 2018, dated 25.11.2022, in confirming the conviction and sentence imposed by the learned Judicial



Magistrate, Fast Track Court, Karaikudi, in C.C.No.144 of 2016 dated 18.04.2018, pending disposal of the Criminal Revision.

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 the Negotiable Instruments Act and sentenced him to undergo one year simple imprisonment. The appellate Court has confirmed the conviction and sentence and dismissed the appeal.

3.The learned counsel appearing for the petitioner submitted that the petitioner owed to the complainant and issued two cheques as a security. By utilizing one of the cheques, he filed a complaint in C.C.No.14 of 2016 on the file of the learned Judicial Magistrate, Fast Track Court, Karaikudi and during the course of the above said trial process, it was settled between the parties and the entire amount has been paid. But by utilizing another cheque, the present complaint has been filed and without taking note of the above said settlement, the present conviction has been passed. He also pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. He would further submit that the petitioner is ready to deposit 25% of the cheque amount before the trial Court.

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

5.In view of the undertaking given by the learned counsel for the petitioner, this Court is inclined to allow this petition.

6.Accordingly, the suspension of sentence petition is allowed and the **petitioner is directed to deposit 25% of the cheque amount before the trial Court.** On such deposit being made, the substantive sentence of imprisonment alone is suspended pending disposal of the revision and the petitioner is directed to be enlarged on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the Judicial Magistrate, Fast Track Court, Karaikudi, and on further condition that the petitioner shall appear before the concerned Court once in a week i.e., on the first working day of every week at 10.30 a.m. pending revision.

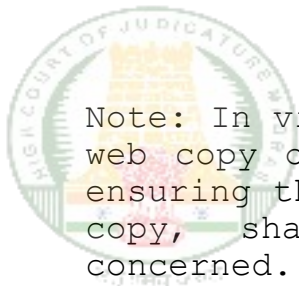
sd/-

10/01/2023

/ TRUE COPY /

11/01/2023

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



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

WEB COPY

1 THE ADDITIONAL DISTRICT JUDGE,
SIVAGANGAI.

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT, KARAIKUDI.

3 THE CHIEF JUDICIAL MAGISTRATE
SIVAGANGAI DISTRICT.

+1. C.C. to M/S.SUNDAR SRINIVASAN R Advocate SR.No.485

ORDER

IN

CRL.M.P. (MD) No.462 of 2023
in

CRL.R.C. (MD) No.27 of 2023

Date :10/01/2023

TM

MK/VR/SAR (11.01.2023) 3P 5C