



CRL MP(MD) No.17314 of 2023

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

Wednesday, the Sixth day of December Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL.M.P(MD).No.17314 of 2023
in CRL.R.C(MD).No.1359 of 2023

GUNASEKARAN

... PETITIONER/ PETITIONER

Vs

MALARKODI

... 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 imposed by the Learned II-Additional District Court, Thanjavur in Crl.A.No.110 of 2023 by the Judgment dt.18.7.2023 by confirming the conviction and the sentence imposed by the Judicial Magistrate, Fast Track Court at Magisterial Level, Thanjavur in S.T.C.No.44 of 2020 by judgment dated 22.02.2023, and enlarged the petitioner on bail pending disposal of this Criminal Revision and thus render justice.

Prayer in CRL RC(MD). 1359/ 2023 :

To call for the records and set aside the Judgment dt.18.7.2023 passed in C.A.No.110 of 2023 on the file of the Learned II-Additional District Court, Thanjavur confirming the conviction and sentence imposed in STC.No.44 of 2020 on the file of the Judicial Magistrate, Fast Track Court at Magisterial Level, Thanjavur dated 22.02.2023 and allow this 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 MR. MAHESWARAN R, Advocate for the petitioner and of MR.K.GUHAN, Advocate on behalf of the Respondent, while admitting the Criminal Revision Petition, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence passed by the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Thanjavur, in S.T.C.No.44 of 2020 dated 22.02.2023, which was confirmed in Criminal Appeal No.110 of 2023, dated 18.07.2023 by the learned II Additional District Court, Thanjavur, 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.6,00,000/- (Rupees Six Lakhs only) within one month as compensation to the respondent, in default to undergo simple imprisonment for a period of two months in S.T.C.No.44 of 2020, on the file of the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Thanjavur.

3. The learned II Additional District Court, Thanjavur, confirmed the conviction and sentence and dismissed the Criminal Appeal No.110 of 2023, dated 18.07.2023. Challenging the same, the Criminal Revision Case has been filed before

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



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this Court along with this miscellaneous petition.

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4. It is submitted by the learned counsel for the petitioner that the petitioner was arrested on 20.11.2023 and now, he is in custody and due to health issue, he was admitted in the jail hospital. He further submitted that he has already deposited 20% of the compensation amount. He further submitted 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. The learned counsel for the respondent submitted that he has no objection to allow this petition.

6. Heard both sides and also perused the materials available on record.

7. 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 the petitioner has already deposited 20% of the compensation amount and also considering the period of incarceration, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.



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8. 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 is directed to be enlarged on bail on condition that 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 Judicial Magistrate Cum Fast Track Court (M.L), Thanjavur.

(ii) 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

(iii) 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/-
06/12/2023

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06/12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO

- 1 THE JUDICIAL MAGISTRATE
FAST TRACK COURT AT MAGISTERIAL LEVEL,
THANJAVUR
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.
- 3 THE II ADDITIONAL DISTRICT JUDGE, THANJAVUR.
- 4 THE SUPERINTENDENT
CENTRAL PRISON, TRICHY.

+1 CC to M/s.R.MAHESWARAN, Advocate (SR-17349[I] dated 06/12/2023)

ORDER
IN
CRL.M.P(MD).No.17314 of 2023
in CRL.R.C(MD).No.1359 of 2023
Date :06/12/2023

SSA/06.12.2023/5P/6C

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