



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

Thursday, the Ninth day of February Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.502 of 2023
in
CRL RC(MD) No.34 of 2023

SURESH KUMAR

... PETITIONER/REVISION PETITIONER

Vs

1 GOMATHI

(*) 2 XXXXXXXXX
XXXXX
XXX

... RESPONDENTS/RESPONDENTS

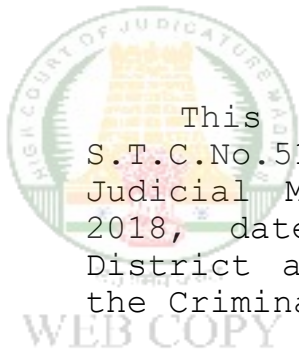
(*) (R2 IS REMOVED AS PER ORDER OF THE COURT
DATED 09.02.2023 IN CRL RC(MD) NO.34/2023)

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 STC No.517/2015 on the file of the Judicial Magistrate Padmanabhapuram dt.14/02/2018 and confirmed in Crl.A.No.38/2018 on the file of the Additional District Sessions Court, Padmanabhapuram dt.26/8/2022 and grant the petitioner on bail pending disposal of the Criminal Appeal.

Prayer in CRL RC(MD). 34/ 2023 :

To call for the records and allow this Criminal Revision petition and set aside the judgement of Conviction imposed in Crl.A.No.38/2018 on the file of the Additional District and Sessions Court, Padmanabhapuram dt.26/8/2022 confirming the conviction imposed in STC No.517 of 2015 on the file of the Judicial Magistrate, Padmanabhapuram dated 14.02.2018.

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.APPAJI C K M, Advocate for the petitioner and of MR.R.SURESH KUMAR, Government Advocate (Crl.Side) on behalf of the 2nd Respondent, while admitting the Criminal Revision Case, the court made the following order:-



This petition is filed to suspend the sentence passed in S.T.C.No.517 of 2015, dated 14.02.2018 on the file of the learned Judicial Magistrate, Padmanabapuram confirmed in Crl.A.No.38 of 2018, dated 26.08.2022 on the file of the learned Additional District and Sessions Judge, Padmanabhapuram, pending disposal of the Criminal Revision Case.

2.The learned counsel appearing for the petitioner submitted that the petitioner was convicted for the alleged offence under Section 138 of Negotiable Instrument Act and sentenced to undergo simple imprisonment for a period of 18 months and also awarded compensation a sum of Rs.1,50,000/-. Aggrieved by the same, the petitioner has preferred an appeal in Crl.A.No.38 of 2018, before the Additional District and Sessions Judge, Padmanabhapuram and the same was dismissed by confirming the judgment in S.T.C.No.517 of 2015 dated 14.02.2018. Hence, the petitioner seeks suspension of sentence.

3.The learned counsel appearing for the petitioner would submit that the petitioner/accused did not cross examine P.W.1 before the trial Court. Thereafter, the petitioner filed a petition before this Court seeking direction to cross examine P.W.1 and the same was allowed by directing him to deposit Rs.25,000/- (Rupees Twenty Five Thousand only) as costs before the trial Court. Due to poverty, the petitioner has not deposited the said amount in time and he has also filed extension of time petition. In the mean time, the trial Court started the trial and convicted the petitioner without cross examine P.W.1 and the same was confirmed by the appellate Court.

4.In view of the above submission made by the learned counsel for the petitioner, this Court is inclined to suspend the sentence imposed upon the petitioner.

5.Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail, on condition that the petitioner shall execute 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 learned Judicial Magistrate, Padmanabhapuram, and on further condition that the petitioner shall appear before the said Court at 10.30 a.m. on the first working day of every English Calendar month, pending disposal of the revision.

sd/-

09/02/2023

/ TRUE COPY /

/03/2023

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

tta



TO

1 THE JUDICIAL MAGISTRATE, PADMANABHAPURAM.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

3 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, PADMANABHAPURAM.

4 THE PUBLIC PROSECUTOR, NAGERCOIL, KANYAKUMARI DISTRICT.

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.C.K.M.APPAJI, Advocate (SR-2144[I] dated 10/02/2023)

ORDER

IN

CRL MP (MD) No.502 of 2023

in

CRL RC (MD) No.34 of 2023

Date :09/02/2023

RS/MMS/SAR-3(23.03.2023) 3P 7C