



CRL MP(MD) No.16570 of 2023

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

Monday, the Twenty Seventh day of November Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P.VADAMALAI

CRL MP(MD) No.16570 of 2023

IN

CRL RC(MD) No.1299 of 2023

K.SIVARAM

... PETITIONER/ APPELLANT/ ACCUSED

Vs

RAJA MICHALE

... 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 grant Suspension of Conviction of the judgment Crl A No. 39 of 2023 before learned III Additional District and Sessions court, Tirunelveli dt. 02.11.2023 in STC No. 646 of 2021 on the file of the Learned Judicial Magistrate cum Munsif, Radhapuram dated 20.02.2023 till the disposal of the instant Criminal Revision Petition.

Prayer in CRL RC(MD). 1299/ 2023 :

To call for the records pertaining to the order in Crl A No. 39 of 2023 before learned III Additional District and Sessions Court, Tirunelveli dt. 02.11.2023 in STC



CRL MP(MD) No.16570 of 2023

No. 646 of 2021 on the file of the learned Judicial Magistrate cum Munsif, Radhapuram dated 20.02.2023 and set aside the same.

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.S.RAJASEKAR, Advocate for M/S.LAJAPATHI ROY AND ASSOCIATES, 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 District Munsif Cum Judicial Magistrate, Radhapuram in S.T.C.No.646 of 2021 dated 20.02.2023, which was confirmed in Criminal Appeal No.39 of 2023 dated 02.11.2023 by the learned III Additional District and Sessions Court, Tirunelveli, 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 on 20.02.2023 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.4,00,000/- (Rupees Four Lakhs only) within one month as compensation to the respondent, in default to undergo simple imprisonment for a period of two months S.T.C.No.646 of 2021, on the file of the learned District Munsif Cum Judicial Magistrate, Radhapuram.

3. The learned III Additional District and Sessions Court, Tirunelveli, confirmed

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



CRL MP(MD) No.16570 of 2023

the conviction and sentence and dismissed the Criminal Appeal No.39 of 2023, dated 02.11.2023. Challenging the same, the Criminal Revision Case has been filed before this Court along with this miscellaneous petition.

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 Compensation amount to the credit of S.T.C.No.646 of 2021 on the file of the



CRL MP(MD) No.16570 of 2023

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learned District Munsif Cum Judicial Magistrate, Radhapuram, within a period of six 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 learned III Additional District and Sessions Court, Tirunelveli.

(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.

(v) On such deposit, before the learned District Munsif Cum Judicial Magistrate, Radhapuram, shall re-deposit the said sum in a Nationalised Bank, so that, the amount accrues interest and the same



CRL MP(MD) No.16570 of 2023

can be disbursed depending upon the outcome of the Criminal

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Revision Case in Crl.R.C.No.1299 of 2023.

sd/-
27/11/2023

/ TRUE COPY /

/01/2024
Sub-Assistant Registrar
(C.S. I / II / III/ IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TTA
TO

1 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
RADHAPURAM.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.

3 THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TIRUNELVELI.

COPY TO:

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

+1 CC to M/s.S.RAJASEKAR, Advocate (SR-16895[I] dated 27/11/2023)

ORDER
IN

CRL MP(MD) No.16570 of 2023

Date :27/11/2023

SA/DD/SAR. /04.01.2024/5P/6C

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