



CRL MP(MD) No.16676 of 2023

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

Tuesday, the Twenty Eighth day of November Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice P.VADAMALAI

CRL MP(MD) No.16676 of 2023
IN
CRL RC(MD) No.1309 of 2023

1 S.SHANMUGAVEL

2 S.KALIAMMAL

3 S.SHANMUGAVADIVEL

4 S.SIVASHANMUGAVEL

... PETITIONERS/PETITIONERS 2 TO 5/
APPELLANTS 2 TO 5/ACCUSED 2 TO 5

Vs

VINAYAK COTTON AGENCIES
133, COTTON MARKET,
RAJAPALAYAM,
VIRUDHUNAGAR DISTRICT.

REPRESENTED BY ITS

MANAGER S.SURIYACHANDRAN,

... RESPONDENT/RESPONDENT/
RESPONDENT/COMPLAINANT

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 execution of the substantive sentence imposed against the petitioners by confirming in an appeal in C.A.No.71/2021 dt.30.10.2023 on the file of the Learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur filed against the impugned order of conviction in CC.No.268 of 2020 dated 23.04.2021 on the file of the Fast Track Judicial Magistrate, Srivilliputhur, till the disposal of the pending the Criminal Revision Petition and release the petitioners on bail.

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



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Prayer in CRL RC(MD). 1309/ 2023 :

To call for records and set aside the Judgment dated 30.10.2023 in C.A.No.71 of 2021 on the file of the Learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur by confirming the order of conviction dt.23.04.2021 in C.C.No.268 of 2020 passed by the Learned Fast Track Judicial Magistrate, Srivilliputhur for the offence punishable under Section 138 of NI Act and allow this Criminal Revision.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.V.SASI KUMAR, Advocate for the petitioner, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence passed by the Fast Track Judicial Magistrate, Srivilliputhur in C.C.No.268 of 2020, dated 23.04.2021, which was confirmed in Criminal Appeal No.71 of 2021, dated 30.10.2023 by the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur, pending disposal of the Criminal Revision Case.

2. The learned counsel appearing for the petitioners submitted that the petitioners have been convicted by the trial Court on 23.04.2021 for the alleged offence under Section 138 of Negotiable Instrument Act and sentenced to undergo simple imprisonment for a period of two years and to pay a sum of Rs.72,81,825/- (Rupees Seventy Two Lakhs Eighty One Thousand Eight Hundred and Twenty Five only) within two month as compensation to the respondent, in default, to undergo simple imprisonment for a period of three months in C.C.No.268 of 2020, on the file of the learned Fast Track Judicial Magistrate, Srivilliputhur.



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3. The learned Principal District and Sessions Judge, Virudhunagr District at Srivilliputhur, confirmed the conviction and sentence and dismissed the Criminal Appeal No.71 of 2021, dated 30.10.2023. 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 petitioners 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 petitioners and also perused the materials available on record.

6. The learned counsel for the petitioners 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 petitioners herein are 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 petitioners shall deposit 20% of the compensation



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amount to the credit of C.C.No.268 of 2020, on the file of the learned Fast Track Judicial Magistrate, Srivilliputhur, 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 petitioners in the manner known to law;

(ii) On such deposit, the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Fast Track Judicial Magistrate, Srivilliputhur;

(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 petitioners 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 being made, the learned Fast Track Judicial Magistrate, Srivilliputhur, shall re-deposit the said sum in a Nationalised Bank, so that, the amount accrues interest and the same



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can be disbursed depending upon the outcome of the Criminal

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Revision Case in CrI.R.C.No.1309 of 2023.

sd/-
28/11/2023

/ TRUE COPY /

/12/2023

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

VSD

TO

1 THE PRINIPAL DISTRICT AND
SESSIONS JUDGE, VIRUDHUNAGAR DISTRICT.

2 THE FAST TRACK JUDICIAL
MAGISTRATE, SRIVILLIPUTHUR.

3 DO THROUGH THE CHIEF JUDICIAL
MAGISTRATE, VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

COPY TO:

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

+1 CC to M/s.V.SASIKUMAR, Advocate (SR-17055[I] dated 29/11/2023)

ORDER IN
CRL MP(MD) No.16676 of 2023
Date :28/11/2023

SA/DD/SAR. /05.12.2023/5P/7C

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