



CRL.M.P(MD).No.16793 of 2023

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

Thursday, the Thirtieth day of November Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL.M.P(MD).No.16793 of 2023

in

CRL.R.C(MD).No.1314 of 2023

S.GANESAN

... PETITIONER/ APPELLANT/
ACCUSED

Vs

A.MARIAPPAN

... RESPONDENT/RESPONDENT/
COMPLAINANT

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 in CA.No.39/2021 on the file of the III Additional District and Sessions Court, Tirunelveli dt.8/9/2023 confirming the conviction in CC No.209/2017 dt.25/3/2021 on the file of the Learned Additional District Munsif cum Judicial Magistrate, Sivagiri pending disposal of this Criminal Revision Petition.

Prayer in CRL RC(MD). 1314/ 2023 :

To call for the records of the Judgment dt.8/9/2023 passed in CA.No.39/2021 on the file of III Addl. Dist. and Sessions Court, Tirunelveli confirming the Judgment passed in CC No.209/2017 dt.25/3/2021 on the file of the learned Additional District Munsif cum Judicial Magistrate, Sivagiri and set aside the same by allowing this revision petition.

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.C. SUSIKUMAR, Advocate for the petitioner, while admitting the Criminal Revision Case, the court made the following order:-



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This Criminal Miscellaneous Petition is filed to suspend the sentence passed by the learned Additional District Munsif Cum Judicial Magistrate, Sivagiri, in C.C.No.209 of 2017 dated 25.03.2021, which was confirmed in Criminal Appeal No.39 of 2021, dated 08.09.2023 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 for the alleged offence under Section 138 of Negotiable Instrument Act and sentenced him to undergo simple imprisonment for a period of two years and to pay a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) within two months as compensation to the respondent, in default it is open to the defacto complainant to initiate proceedings in accordance with law, in C.C.No.209 of 2017, on the file of the learned Additional District Munsif Cum Judicial Magistrate, Sivagiri.

3. The learned III Additional District and Sessions Court, Tirunelveli, confirmed the conviction and sentence and dismissed the Criminal Appeal No.39 of 2021, dated 08.09.2023. Challenging the same, the Criminal Revision Case has been filed before this Court along with this miscellaneous petition.



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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:-



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(i) The petitioner shall deposit 20% of the Compensation amount to the credit of S.TC.No.209 of 2017 on the file of the learned Additional District Munsif Cum Judicial Magistrate, Sivagiri, within a period of four 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 Additional District Munsif Cum Judicial Magistrate, Sivagiri.

(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.



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(v) On such deposit, the learned Additional District Munsif Cum Judicial Magistrate, Sivagiri, shall re-deposit the said sum in a Nationalised Bank, so that, the amount accrues interest and the same can be disbursed depending upon the outcome of the Criminal Revision Case in Crl.R.C.No.1314 of 2023.

sd/-
30/11/2023

/ TRUE COPY /

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

tta

TO

1.THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE, TIRUNELVELI

2.THE ADDITIONAL DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
SIVAGIRI

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI.

+1 CC to M/s.C.SUSI KUMAR, Advocate (SR-17142[I] dated 30/11/2023)

ORDER
IN

CRL.M.P(MD).No.16793 of 2023
in

CRL.R.C(MD).No.1314 of 2023
Date :30/11/2023

RK/DD (11/12/2023) 5P / 5C

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