



CRL.M.P(MD).No.17058 of 2023

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

Tuesday, the Fifth day of December Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL.M.P(MD).No.17058 of 2023

in

CRL.R.C(MD).No.1332 of 2023

LILLY BAI

... PETITIONER/ APPELLANT

Vs

KRISHNAKUMARI

... RESPONDENT/RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to pass an order to suspend the sentence imposed in C.A No. 23 of 2023 dt. 10.11.2023 on the file of the Additional District and Sessions Judge, Padmanabhapuram confirming the judgment passed by the Judicial Magistrate, Padmanabhapuram in S.T.C.No.751 of 2016 dated 12.02.2018 and enlarge the petitioner on bail, pending disposal of the criminal revision petition.

Prayer in CRL RC(MD). 1332/ 2023 :

To call for the records and set aside the judgment passed in C.A No. 23 of 2018 dt. 10.11.2023 on the file of the Additional District and Sessions Judge, Padmanabhapuram confirming the Judgment passed by the Judicial Magistrate, Padmanabhapuram in STC No. 751 of 2016 dt.12.02.2018 and allow this Criminal 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.S.SIVAKUMAR, 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 Judicial Magistrate, Padmanabhapuram, in S.T.C.No.751 of 2016 dated 12.02.2018, which was confirmed in Criminal Appeal No.23 of 2023, dated 10.11.2023 by 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 has been convicted by the trial Court on 12.02.2018 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.1,25,000/- (Rupees one Lakh and Twenty five Thousand only) as compensation to the respondent in S.T.C.No.751 of 2016, on the file of the learned Judicial Magistrate, Padmanabhapuram.

3. The learned Additional District and Sessions Judge, Padmanabhapuram, confirmed the conviction and sentence and dismissed the Criminal Appeal No.23 of 2023, dated 10.11.2023. 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.751 of 2016 on the file of the learned Judicial Magistrate, Padmanabhapuram, within a period of four weeks from the date of receipt of a copy of this order, failing which the sentence suspended shall automatically be 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 Judicial Magistrate, Padmanabhapuram.

(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, before the learned Judicial Magistrate, Padmanabhapuram, 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 CrI.R.C.No.1332 of 2023.

sd/-
05/12/2023

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

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TO

1. THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, PADMANABHAPURAM
2. THE JUDICIAL MAGISTRATE, PADMANABHAPURAM.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI @ NAGERCOIL.

+1 CC to M/s.S.SIVAKUMAR, Advocate (SR-17272[I] dated 05/12/2023)

ORDER IN
CRL.M.P(MD).No.17058 of 2023
in
CRL.R.C(MD).No.1332 of 2023
Date :05/12/2023

RK/DD (15/12/2023) 5P / 5C

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