



CRL MP(MD) No.17774 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Tuesday, the Nineteenth day of December Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.17774 of 2023
in
CRL RC(MD)No.1407 of 2023

DANIYAL

... PETITIONER/PETITIONER

Vs

KALIYAMOORTHY

... 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 Suspend the sentence of imprisonment imposed by the learned II Additional District Court, Thanjavur in Crl A No. 22 of 2023 by the Judgment dt. 23.11.2023 by confirming the conviction and the sentence imposed by the Learned Judicial Magistrate FTC(ML), Thanjavur in C.C.No.24 of 2017 by judgment dated 14.12.2022, and enlarged the petitioner on bail pending disposal of this Criminal Revision.

Prayer in CRL RC(MD). 1407/ 2023 :

To call for the records and set aside the judgment dt. 23.11.2023 passed in Crl A No. 22 of 2023 on the file of the learned II Additional District Court, Thanjavur confirming the conviction and sentence imposed in C.C no. 24 of 2017 on the file of the Learned Judicial Magistrate(FTC) AT (ML), Thanjavur dated 14.12.2022 and allow this Criminal Revision Petition.

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 M/S.MAHESWARAN.R, Advocate for the petitioner while admitting the Criminal Revision Petition, 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 (Fast Track Court) at Magisterial Level, Thanjavur, in C.C.No.24 of 2017, dated 14.12.2022, which was confirmed in Criminal Appeal No.22 of 2023, dated 23.11.2023 by the learned II Additional District Court, Thanjavur, 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 14.12.2022 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.6,00,000/- (Rupees six Lakhs only) as compensation to the respondent, in default to undergo simple imprisonment for a period of two months in C.C.No.24 of 2017 on the file of the learned Judicial Magistrate (Fast Track Court) at Magisterial Level, Thanjavur.

3. The learned II Additional District Court, Thanjavur, confirmed the conviction and sentence and dismissed the Criminal Appeal No.22 of 2023, dated 23.11.2023. 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.



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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 Cheque amount/ compensation amount** to the credit of C.C.No.24 of 2017 on the file of the learned Judicial Magistrate (Fast Track Court) at Magisterial Level, Thanjavur, 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;



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(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 (Fast Track Court) at Magisterial Level, Thanjavur.

(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, the Judicial Magistrate (Fast Track Court) at Magisterial Level, Thanjavur, 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.1407 of 2023.

sd/-
19/12/2023

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

TTA



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TO
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- 1 THE II ADDITIONAL DISTRICT JUDGE, THANJAVUR.
- 2 THE JUDICIAL MAGISTRATE
(FAST TRACK COURT) AT MAGISTERIAL LEVEL,
THANJAVUR.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.

+1 CC to M/s.R.MAHESWARAN, Advocate (SR-18013[I] dated 19/12/2023)

ORDER
IN
CRL MP(MD) No.17774 of 2023
in
CRL RC(MD)No.1407 of 2023
Date :19/12/2023
(1/2)

SS/JGB/SAR- /04/01/2024/5P/5C

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