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*Crl.M.P.No.13440 of 2024
in Crl.R.C.No.1622 of 2024*

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2024

CORAM:

THE HON'BLE MR.JUSTICE **M. NIRMAL KUMAR**

Crl.M.P.No.13440 of 2024
in
Crl.R.C.No.1622 of 2024

Anjali

... Petitioner/Accused

Vs.

R.Madankumar

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 438(b) of B.N.S.S to suspend the sentence imposed on the petitioner by the learned III Additional Sessions Judge, Vellore at Tirupattur on the date of judgment in C.A.No.36 of 2020 dated 22.02.2023 by confirming Judgment and Conviction of the Trial Court learned Judicial Magistrate No.I, Tirupattur in S.T.C.No.50 of 2018 dated 09.11.2020 pending disposal of the Criminal Revision petition and enlarge the petitioner on bail.

For Petitioner : Mr.G.Vinodhkumar

For Respondent : Mr.S.Gopinath



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ORDER

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This Criminal Miscellaneous Petition has been filed by the petitioner, seeking to suspend the sentence imposed vide S.T.C.No.50 of 2018 on the file of learned Judicial Magistrate No.I, Tirupattur dated 09.11.2020 for an offence under Section 138 of the Negotiable Instruments Act and confirmed in Crl.A.No.36 of 2020 on the file of learned III Additional Sessions Judge, Vellore at Tirupattur dated 22.02.2023 and enlarge the petitioner on bail pending disposal of the above Criminal Revision Case.

2.The petitioner/accused in S.T.C.No.50 of 2018 was convicted by the Trial Court by judgment dated 09.11.2020 for offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo one year simple imprisonment and to pay Rs.4,00,000/- as compensation. Aggrieved against the same, the petitioner preferred an appeal before the learned III Additional Sessions Judge, Vellore at Tirupattur. The learned Additional Sessions Judge, by judgment dated 22.02.2023, confirmed the conviction and sentence of the trial Court, against which, the petitioner preferred a revision before this Court in Crl.R.C.No.1622 of 2022 along with the instant miscellaneous petition seeking suspension of sentence and bail.



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3. During trial, on the side of the prosecution, PW1 examined and marked Exs.P1 to P4. On the side of the defence no witnesses were examined and no documents were marked. On conclusion of trial, the Trial Court on the evidence of witnesses and the materials produced, convicted the petitioner as stated above and the Appellate Court confirmed the same.

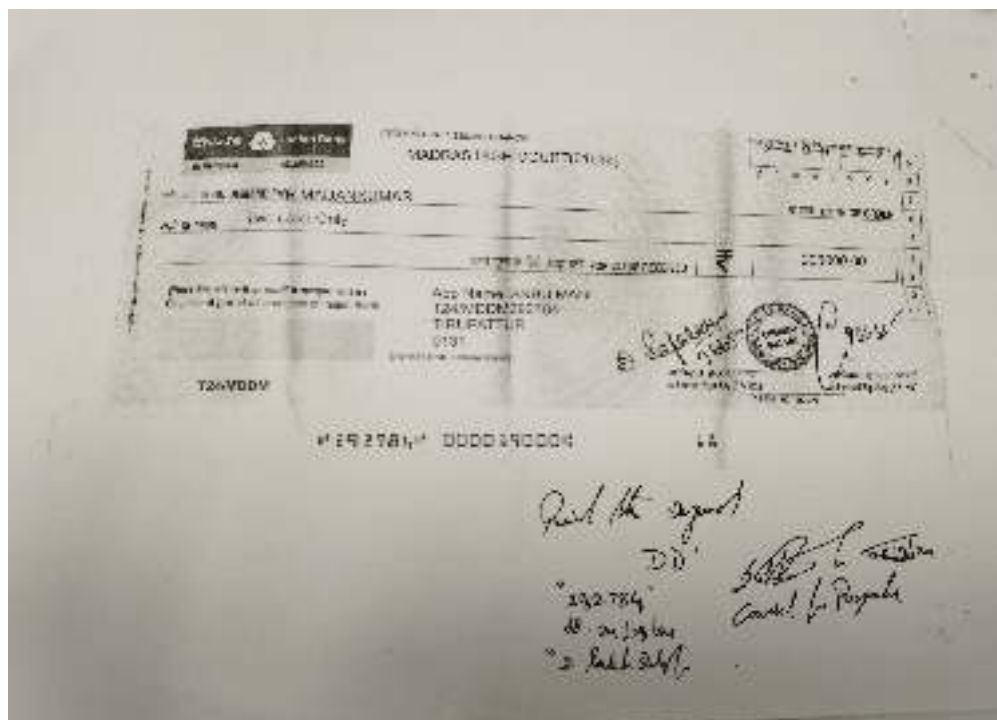
4. The contention of the learned counsel for the petitioner is that the petitioner is a vegetable vendor who took some financial assistance for her business to manage a loan. At that time, her signed cheque was taken as security, which was later filled out by the respondent for a substantial sum of Rs. 4 lakhs, leading to her prosecution. It is also claimed that notice in this case was not properly served. The petitioner did not take a loan of Rs. 4 lakhs, and the respondent had no legitimate source to demand such a large sum. These facts were raised before the Trial Court, however, the same was not considered. Further, the petitioner, being a vendor who travels to various locations carrying head load of vegetables do not require a loan of Rs.4 lakhs. But the Trial Court found that the petitioner had signed the cheque and subsequently convicted her. He further submitted that the petitioner was arrested on the conviction warrant and now she is in confinement at Special Prison for Women, Vellore. The petitioner has produced the demand draft of



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Rs.2 lakhs in favor of the respondent. The learned counsel for the respondent received the same. A scanned copy of the demand draft is reproduced hereunder:



The learned counsel for the petitioner submit that the petitioner is willing to negotiate with the respondent for a settlement.

5.The learned counsel for the respondent submits that he would take instructions with regard to remaining amount.



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6.Considering the submissions made and on perusal of the materials and also the petitioner had produced the demand draft of Rs.2 Lakhs favorable to the respondent, this Court is inclined to suspend the sentence imposed on the petitioner.

7.Accordingly, the sentence of imprisonment imposed on the petitioner is suspended. The petitioner is directed to execute a personal bond for Rs.25,000/- before the Superintendent, Special Prison for Women, Vellore and on execution of the same, the Superintendent, Special Prison for Women, Vellore shall release the petitioner forthwith. Accordingly, this Criminal Miscellaneous Petition is ordered.

8.Post the matter on 18.10.2024 'For Reporting Settlement'.

25.09.2024
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To

- 1.The III Additional Sessions Judge,
Vellore, Tirupattur.
- 2.The Judicial Magistrate No.I,
Tirupattur.
- 3.The Superintendent,
Special Prison for Women,
Vellore.
- 4.The Public Prosecutor,
High Court, Madras.



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M. NIRMAL KUMAR, J.

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