



CRL MP(MD) No.847 of 2024

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

Tuesday, the Thirtieth day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.847 of 2024

in

CRL RC(MD)No.72 of 2024

G.SHANTHY

... PETITIONER/ APPELLANT/ ACCUSED

Vs

S.DEEPAK

... 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 sentence imposed in Crl.A.No.133/2023 dated 07.11.2023 on the files of II Additional District and Sessions Court, Thanjavur by confirming the order passed in STC No.155/2019 dated 10.04.2023 on the file of Judicial Magistrate(Fast Track) Thanjavur till the disposal of this main Criminal Revision Petition.

Prayer in CRL RC(MD). 72/ 2024 :

To set aside the order in Crl.A.No.133/2023 dated 07.11.2023 on the files of the II Additional District and Sessions Court, Thanjavur confirming the order passed in STC.No.155/2019 dated 10.04.2023 on the file of Judicial Magistrate (Fast Track) Thanjavur.

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.JAYACHANDRAN.S, Advocate for the petitioner while admitting the Criminal Revision Petition., the Court made the following order:-



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The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence imposed on her by the learned II Additional District and Sessions Judge, Thanjavur, in CrI.A.No.133 of 2023, dated 07.11.2023 and to enlarge her on bail, pending disposal of the Criminal Appeal.

2. It is the case of the respondent/complainant that the petitioner/accused borrowed a sum of Rs.4,00,000/- from him for her family needs, dated 20.02.2019 with an assurance to repay the same within two months and she has given a cheque to him and the same was returned as “insufficient balance”, hence, he made a complaint and the same was taken on file in S.T.C.No.155 of 2019 before the learned Judicial Magistrate (Fast Track), Thanjavur. The petitioner was convicted and sentenced to undergo one year simple imprisonment and pay a compensation of Rs.4,00,000/- with two months simple imprisonment, in case of default, for the offence under Section 138 of Negotiable Instruments Act. Challenging the above said conviction and sentence, the petitioner has preferred the Criminal Appeal before the II Additional District and Sessions Judge, Thanjavur, in CrI.A.No.133 of 2023 and the same was also dismissed on 07.11.2023. Challenging the concurrent findings, the petitioner has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.



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3. The learned counsel for the petitioner submitted that the petitioner is working as a Teacher and her family is entirely depending on her income. Admittedly, the respondent entered into an agreement for construction of a house and within the time limit, he has not completed the work, in which, there was a dispute between them, hence, he misused the cheque that was issued to him while constructing the house and both the Courts below failed to take note of the fact that the respondent himself had stated in his evidence that there is no amount due from the petitioner in respect of construction business. The Courts below have failed to analyze the evidences and also no proper findings were rendered in this case and hence, learned counsel prays for suspension of sentence.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. The petitioner is said to have committed the offence under Section 138 of the Negotiable Instrument Act. It is the specific case of the petitioner that as per the evidence of the respondent that there is no amount due from the petitioner in respect of construction business. Further, the learned counsel for the petitioner pointed out certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. So this Court *prima facie* satisfied that there are arguable points involved in this Criminal Revision Petition and further the



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Criminal Revision is not likely to be taken up for final hearing in the near future and as such, this Court is inclined to suspend the sentence imposed on the petitioner.

6. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned II Additional District and Sessions Judge, Thanjavur, in Crl.A.No.133 of 2023 dated 07.11.2023 alone is suspended, subject to the following conditions:-

i) The petitioner shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh Only) within a period of four weeks from the date of receipt of a copy of this order.

ii) 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 II Additional District and Sessions Judge, Thanjavur.

iii) The petitioner shall appear and sign before the learned II Additional District and Sessions Judge, Thanjavur, on the first working day of every English calender month at 10.30 a.m., until further orders.

iv) In case, if the petitioner is unable to appear before the Court on the first working day of a month, she shall appear on the next working day.

v) The petitioner shall furnish her residential address and mobile number to the Trial Court ie., learned II Additional District and Sessions Judge, Thanjavur.



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8. Subject to the above conditions, this Petition is allowed.

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30/01/2024

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/02/2024

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

RM

TO

- 1 THE II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, THANJAVUR.
- 2 THE JUDICIAL MAGISTRATE
(FAST TRACK), THANJAVUR.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.

ORDER
IN
CRL MP(MD) No.847 of 2024
in
CRL RC(MD)No.72 of 2024
Date :30/01/2024

SS/JGB/SAR- /05/02/2024/5P/4C

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