



CRL.M.P.(MD)No.6190 of 2024

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

Wednesday, the Twenty Sixth day of June Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

CRL.M.P.(MD)No.6190 of 2024
in
CRL.R.C.(MD)No.602 of 2024

B.CHELLASAMY

... PETITIONER/APPELLANT/
ACCUSED

Vs

R.SELVARAJ

... 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 Suspending the Sentence imposed upon the petitioner in STC No.888/2012 on the file of the Learned Judicial Magistrate No.2 Trichy District dt.02.11.2018, which had been confirmed in Crl A No.142/2018 on the file of the District Sessions Judge, Trichy District by judgment dated 19.01.2023 pending disposal of the main Criminal Revision Petition.

Prayer in CRL RC(MD). 602/ 2024 :

To call for the records and set aside the judgment made in Crl A No.142/2018 on the file of the Principal District and Sessions Judge, Trichy dt.19.01.2023, confirming the conviction and sentence imposed upon the petitioner in STC No.888/2012 on the file of Judicial Magistrate No.2, Trichy dated 02.11.2018 and acquit the Petitioner.



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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 MR.H.JAHIR HUSSAIN, Advocate for the petitioner, while admitting the Criminal Revision Case, the court made the following order:-

This petition is filed to suspend the sentence imposed on the petitioner by the learned District Sessions Judge, Trichy, in Crl.A.No.142 of 2018 dated 19.01.2023, in confirming the conviction and sentence imposed by the learned Judicial Magistrate No.2, Trichy District, in S.T.C.No.888 of 2012, dated 02.11.2018 pending disposal of the main Criminal Revision.

2. The case of the respondent is that the respondent and the petitioner are close friends. The petitioner borrowed a sum of Rs.5,00,000/- from the respondent for his family expenditure. On the same day, the petitioner executed a promissory note and he had promised to return the above said amount within three months. On 15.10.2012, the respondent demanded the petitioner for the payment of the said sum, the petitioner issued cheque in favour of the respondent. The respondent presented the said cheque before the bank and the same was returned stating that "funds insufficient". Thereafter, the respondent issued notice to the petitioner on 25.10.2012 and the same was received by the petitioner on 26.10.2012 and sent an evasive reply to the respondent. Hence, the respondent filed a complaint under Section 138 of



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Negotiable Instruments act, and the same was taken on file in S.T.C.No.888 of 2012 before the learned Judicial Magistrate No.2, Trichy.

3. During trial, the complainant was examined as P.W.1 and exhibited 6 documents as Ex.P.1 to Ex.P.6 and no material objects were marked. On the side of the accused, one witness was examined as D.W.1 and no document was marked.

4. The learned Judicial Magistrate No.2, Trichy, has passed the judgment in S.T.C.No.888 of 2012, dated 02.11.2018, and convicted the petitioner/accused for the offence under Section 138 of the Negotiable Instrument Act, and sentenced him to undergo one year Simple Imprisonment and to pay compensation of Rs.5,00,000/- (Rupees Five Lakhs Only) to the complainant. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the learned District Sessions Judge, Trichy District, in Crl.A.No.142 of 2018. However, the same was dismissed on 19.01.2023, thereby confirming the conviction and sentence imposed on the petitioner. Aggrieved over the above said conviction and sentence, imposed by the Courts below, the petitioner preferred the present Criminal Revision Case along with the present Miscellaneous Petition seeking for suspension of sentence.



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5. The learned counsel for the petitioner submitted the petitioner disputed the liability of the cheque and the same was not considered by the both Court below and also submitted that there are some arguable points involved in the criminal revision and the learned trial Judge as well as the Appellate Judge has not considered the evidence in proper prospective and hence, the judgments are suffered from perversity. He further submitted that the petitioner has already deposited a sum of Rs.2,00,000/- (Rupees Two Lakhs only). Hence, he seeks for the suspension of sentence.

6. This Court has carefully considered the submission made by the counsel for the petitioner and also perused the materials available on record.

7. Considering the fact that the petitioner has already deposited a sum of Rs.2,00,000/- (Rupees Two Lakhs only), considering the period of incarceration and also there are some arguable points involved in the criminal revision, this Court is inclined to grant suspension of sentence.

8. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the revision with the following



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directions:-

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- (i) 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 No.2, Trichy,
- (ii) 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
- (iii) 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.

sd/-
26/06/2024

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26/06/2024
Sub-Assistant Registrar (PA-I/ AD-II)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TTA

TO

1.THE JUDICIAL MAGISTRATE NO.2 TRICHY DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY.



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3. THE DISTRICT SESSIONS JUDGE, TRICHY DISTRICT
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4. THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL.M.P.(MD)No.6190 of 2024
in
CRL.R.C.(MD)No.602 of 2024
Date :26/06/2024

RK (26/06/2024) 6P / 6C

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