



CRL MP(MD) No.4532 of 2024

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

Monday, the Twenty Second day of April Two Thousand and Twenty Four

PRESENT

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

CRL MP(MD) No.4532 of 2024
in
CRL RC(MD) No.421 of 2024

PALANICHAMY

... PETITIONER

Vs

KUMARAVEL

... 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 imposed on the petitioner by the learned Additional District and Sessions Court, Palani, Dindigul in CA.No.83/2018 dated 28/03/2023 against C.C.No.23/2011 dated 12/4/2018, while confirming the conviction and sentence passed by the Learned Judicial Magistrate (Fast Track Court), Palani, pending disposal of the above Criminal Revision Petition.

Prayer in CRL RC(MD). 421/ 2024 :

To call for the records pertaining to the Judgment passed by the Learned Additional District and Sessions Court, Palani, Dindigul District in CA No.83/2018 dated 28/3/2023 in confirming the Judgment and sentence imposed by the learned Judicial Magistrate, Fast Track Court, Palani, Dindigul District in C.C.No.23 of 2011



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dated 12.04.2018 and set aside the same 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.S.SARVAGAN PRABHU, 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 Additional District and Sessions Court, Palani, in C.A.No.83 of 2018 dated 28.03.2023 in confirming the judgment of conviction and sentence made in C.C.No.23 of 2011 on the file of the learned Judicial Magistrate, Fast Track Court, Palani dated 12.04.2018 and enlarge the petitioner on bail pending disposal of the main Criminal Revision.

2.The petitioner is running a petrol bunk and he well known to the respondent for the past seven years. The accused used to borrow loan from the respondent for his business and returned the same to the respondent. In the month of May 2002, the petitioner borrowed a sum of Rs.5,00,000/- as hand loan from the complaint, for which he issued a cheque bearing No.263360 which drawn in Canara Bank Keeranoor dated 16.09.2002. The respondent has presented the cheque for collection in his bank account maintained at Indian Overseas Bank, Narikalpatti on 20.10.2002.



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But the cheque was not honored and returned for the reason that there was no sufficient funds in the Bank account of the petitioner on 25.10.2002. Therefore, the respondent has issued a legal notice to the petitioner through his counsel on 06.11.2002 which was received by the accused on 12.11.2002, however, the petitioner neither paid any amount nor sent any reply. Hence, the respondent filed a complaint under Section 138 of Negotiable Instruments Act, and the same was taken on file in C.C.No.23 of 2011 before the learned Judicial Magistrate, Fast Track Court, Palani.

3.During trial, the complainant has been examined as P.W.1 and exhibited 7 documents as Ex.P.1 to Ex.P.7. On the side of the accused, neither a document was produced nor a witness was examined.

4.The learned Judicial Magistrate, Fast Track Court, Palani., after full-fledged trial, has passed the judgment in C.C.No.23 of 2011, dated 12.04.2018, and convicted the petitioner for the offence under Section 138 of the Negotiable Instrument Act, and sentenced him to undergo six months Simple Imprisonment and to pay fine of Rs.3,000/- in default to undergo one month of Simple Imprisonment. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the learned Additional District and Sessions Court, Palani, in C.A.No.83 of 2018. However, the same was dismissed on 28.03.2023, thereby confirmed the conviction and sentence imposed on the petitioner. Aggrieved over the above said



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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.

5.The learned counsel for the petitioner 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 also undertakes to deposit a sum of Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand 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 undertakes to deposit a sum of Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand only) and there was no antecedent against the petitioner and 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 directions:-



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*** (i) The petitioner shall deposit a sum of Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand only) to the credit of C.C.No.23 of 2011 on the file of the learned Judicial Magistrate, Fast Track Court, Palani, on or before 19.06.2024, 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, Fast Track Court at Magisterial Level, Palani.;

(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.

8.1. On such deposit being made, the learned trial judge, is hereby directed to re-deposit the said amount of Rs.1,50,000/- in any one of the Nationalized Bank in interest bearing account.



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*9.Post the matter on 19.06.2024, for reporting compliance.

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sd/-
22/04/2024

(Corrected as per Order of this
Court dated 05.06.2024 in CRL
MP(MD) No.4532 of 2024 in CRL
RC(MD) No.421 of 2023)

/ TRUE COPY /

06/06/2024

Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

GNS

TO

TO BE SUBSTITUTED WITH THE ORDER ALREADY DESPATCHED ON
22.04.2024

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
PALANI, DINDIGUL.

2 THE JUDICIAL MAGISTRATE
(FAST TRACK COURT),
PALANI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL DISTRICT.

COPY TO

1 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT AT MAGISTERIAL LEVEL, KARUR.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KARUR DISTRICT.



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+1 CC to M/s.S.SARVAGAN PRABHU, Advocate (SR-6146[I] dated 05/06/2024)
ORDER
IN
CRL MP(MD) No.4532 of 2024
in
CRL RC(MD) No.421 of 2024
Date :22/04/2024

RS/VR/SAR-(20.05.2024) 7P 7C
ED/ /SAR- (04/06/2024) 7P / 7C
Madurai Bench of Madras High Court is issuing
certified copies in this format from 17/07/2023