



CRL MP(MD) No.7782 of 2024

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

Monday, the Fifth day of August Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL.M.P.(MD)No.7782 and 7783 of 2024

in

CRL.R.C.(MD)No.737 of 2024

D.BABU

... PETITIONER/PETITIONER

Vs

AMUTHA KANIMOZHI

... 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 passed C.A.No.58/2023 on the file of Principal Sessions Court, Thanjavur dated 05.10.2023 against STC No.206/2018 on the file of learned Judicial Magistrate Fast Track Court, Thanjavur dated 29.09.2022.

Prayer in CRL MP(MD). 7783/ 2024 :

To exempt the petitioner from surrender in C.A.No.58/2023 on the file of Principal Sessions Court, Thanjavur dated 05.10.2023 against STC No.206/2018 on the file of learned Judicial Magistrate Fast Track Court, Thanjavur dated 29.09.2022

Prayer in CRL RC(MD). 737/ 2024 :

To call for the records relating to the order in C.A.No.58/2023 on the file of Principal Sessions Court, Thanjavur dated 05.10.2023 against STC No.206/2018 on the file of learned Judicial Magistrate Fast Track Court, Thanjavur dated 29.09.2022 and set aside the same as illegal.



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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 M/S.THIRUVARUTSELVAN G, Advocate for the petitioner and of Mr.P.THIRUMAHILMARAN, Advocate on behalf of the Respondent, the court made the following order:-

The above petition has been filed to suspend the sentence imposed on the petitioner by the learned Judicial Magistrate Fast Track Court, Thanjavur, in S.T.C.No.206 of 2018, dated 05.10.2023, which was confirmed by the learned Principal Sessions Judge, Thanjavur in C.A. No.50 of 2023, dated 29.09.2022.

2. The case of the complainant is that the petitioner/accused has borrowed a sum of Rs.6,00,000/- from the complainant on 06.08.2018 for his family expenses and agreed to repay the said amount within a week, that after the demand made by the complainant on various dates, the petitioner has issued a cheque dated 29.09.2018, that when the complainant has presented the cheque for collection on 29.09.2018, the same was returned on the same day with reason "Funds Insufficient", that the complainant has then sent a legal notice dated 09.10.2018 to the petitioner demanding repayment of the amount covered by the cheque, that the petitioner after receiving the notice neither paid the cheque amount nor replied to the legal notice and that thereafter the complainant has filed a private complaint for the offence under Section 138 of Negotiable Instruments Act.

3. The learned counsel appearing for the petitioner would submit that the



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petitioner has been convicted by the trial Court for the alleged offence under Section 138 of Negotiable Instruments Act and sentenced him to undergo one year simple imprisonment and to pay a compensation of Rs.6,00,000/-, in default, to undergo two months simple imprisonment.

4. Challenging the above said conviction and sentence, the petitioner has filed an appeal in Crl.A.No.58 of 2023 on the file of the learned Principal Sessions Judge, Thanjavur. The learned Sessions Judge confirmed the conviction and sentence and dismissed the appeal. Being dissatisfied with the said conviction and sentence, the petitioner has preferred the present Criminal Revision along with the instant miscellaneous petition seeking suspension of sentence.

5. The learned counsel appearing for the petitioner would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He would further submit that the petitioner has already deposited 25% of the amount before the appellate Court.

6. The learned counsel for the respondent would submit that even before the appellate Court, the petitioner has filed an application to condone the delay in filing the appeal and the same was condoned and even before this Court, there was a delay in filing the revision and the same was ordered to be condoned and that the above



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would go to show the petitioner is intention to drag on the matter further.

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7. The learned counsel for the petitioner would submit that the petitioner is ready to deposit the amount and seeks time.

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

9. The learned counsel appearing 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.

10. Accordingly, the relief of suspension of sentence is granted to the petitioner on the following conditions:-

(i) The petitioner shall deposit a sum of Rs.2,00,000/- on or before 27.08.2024 and the remaining amount shall be deposited on or before 24.09.2024 to the credit in S.T.C.No.206 of 2018 on the file of the learned Judicial Magistrate Fast Track Court, Thanjavur, failing which the sentence suspended shall automatically dismissed and the second respondent is at liberty to execute the sentence imposed by the trial



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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 Judicial Magistrate Magistrate Fast Track Court, 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 and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court. Consequently, Connected Crl.M.P(MD)No.7783 of 2024, is closed.

sd/-
05/08/2024

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/08/2024
Sub-Assistant Registrar
(CS.I, II, III, IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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DAS

TO

1 THE PRINCIPAL SESSIONS JUDGE,
THANJAVUR.

2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT, THANJAVUR.

3 DO THROUGH THE CHIEF JUDICIAL
MAGISTRATE, THANJAVUR DISTRICT AT KUMBAKONAM.

ORDER

IN

CRL.M.P.(MD)No.7782 and 7783 of 2024

in

CRL.R.C.(MD)No.737 of 2024

Date :05/08/2024

SA/VR/09.08.2024/6P/4C

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