



CRL MP(MD) No.5537 of 2024

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

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

PRESENT

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

CRL MP(MD) No.5537 of 2024

in

CRL RC(MD) No.532 of 2024

PANNERSELVAM

... PETITIONER/REVISION PETITIONER

Vs

R.BHARATHI

... 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 of the petitioner imposed in judgment dated 29.09.2022 in CC.No.09/2018 on the file of Fast Track Court at Magisterial Level, Thanjavur, confirmed in judgment dated 10.08.2023 made in Crl.A.No.82/2022 on the file of Principal Sessions Court Thanjavur, pending disposal of the above criminal revision petition.

Prayer in CRL RC(MD). 532/ 2024 :

To call for recorded set aside the judgment dated 10.08.2023 made in Crl.A.No.82/2022 on the file of Principal Sessions Court, Thanjavur, confirming the judgment dated 29.09.2022 in CC.No.09/2018 on the file of the Fast Track Court at Magisterial Level, Thanjavur and allow the criminal Revision.

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.A.ARUN PRASAD, Advocate for the petitioner and of MR.C.MAHADEVAN, Advocate on behalf of the Respondent, while admitting the Criminal Revision Case, the court made the following order:-

<https://www.mhc.tn.gov.in/judis>



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This petition is filed to suspend the sentence imposed on the petitioner by the Principal Sessions Court, Thanjavur, in CrI.A.No.82 of 2022 dated 10.08.2023, in confirming the conviction and sentence imposed by the Fast Track Court at Magisterial Level, Thanjavur, in C.C.No.09 of 2018, dated 29.09.2022 pending disposal of the main Criminal Revision.

2.The case of the respondent is that the petitioner borrowed a sum of Rs.12,00,000/- from the respondent and promised to repay the said sum with interest at the rate of 12% per annum to the complainant. Towards repayment of such due, the petitioner said to have issued two cheques bearing Nos.046529 and 046530 for a sum of Rs.7,00,000/- and Rs.5,00,000/- drawn on Indian Overseas Bank, Mannargudi. While, the respondent presented the said cheque for payment, the same was returned with an endorsement as "Payment Stopped by the Drawer", for which, on 01.11.2017, the respondent had also issued legal notice. The petitioner/accused had received the notice on 03.11.2017. But, the petitioner has not respond to the notice. Hence, the respondent filed a complaint under Section 138 of Negotiable Instruments act, and the same was taken on file in C.C.No.09 of 2018 before the Fast Track Court at Magisterial Level, Thanjavur.

3.During trial, on the side of the respondent, two witnesses have been examined as P.W.1 and P.W.2 and exhibited 7 documents as Ex.P.1 to Ex.P.7 and no material



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objects were marked. On the side of the accused, one witness has been examined as D.W.1 and exhibited 2 documents as Ex.D1 and Ex.D2.

4.The learned Fast Track Court at Magisterial Level, Thanjavur, has passed the judgment in C.C.No.09 of 2018, dated 29.09.2022, 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 a sum of Rs.12,00,000/- as compensation within a period of one month in default to undergo two months of Simple Imprisonment. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the Principal Sessions Court, Thanjavur, in CrI.A.No.82 of 2022. However, the same was dismissed on 10.08.2023, 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.

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 already deposited the 20% of the cheque amount and also submits that he has



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undertakes to deposit a further 20% of the cheque amount. 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 further sum of Rs.2,40,000/- (Rupees Two Lakhs and Forty 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:-

(i) The petitioner shall deposit a sum of Rs.2,40,000/- (Rupees Two Lakhs and Forty Thousand only) to the credit of C.C.No.09 of 2018 on the file of the Fast Track Court at Magisterial Level, Thanjavur, on or before 22.07.2024, 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



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satisfaction of the Fast Track Court at Magisterial Level, Thanjavur;

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(iii) The sureties shall affix her 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 her 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 amount of Rs.2,40,000/- (Rupees Two Lakhs and Forty Thousand only) in any one of the Nationalized Bank in interest bearing account.

9. Post the matter on 23.07.2024, for reporting compliance.

sd/-
06/06/2024

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/06/2024
Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

1 THE PRINCIPAL SESSIONS JUDGE, THANJAVUR.

2 THE JUDGE, FAST TRACK COURT AT MAGISTERIAL LEVEL, THANJAVUR.

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



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ORDER

IN

CRL MP(MD) No.5537 of 2024

in

CRL RC(MD) No.532 of 2024

Date :06/06/2024

RS/VR/SAR-(27.06.2024) 6P 4C

Madurai Bench of Madras High Court is issuing
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