



Crl.M.P.(MD) No.2408 of 2024

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

Tuesday, the Twenty Seventh day of February Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

Crl.M.P.(MD) No.2408 of 2024
in
Crl.A(MD) No.212 of 2024

M.ASIR

... PETITIONER/PETITIONER

Vs

IYYAPPAN

... 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 imposed on the petitioner by the judgment of Judicial Magistrate, Tenkasi in STC.No.1757 of 2015 dt. on 27.10.2022 confirmed by the Court of Additional District and Sessions Judge (Fast Track), Tenkasi in Crl.A.No.88 of 2022 dated 22.12.2023 pending disposal of this Criminal Revision Petition.

Prayer in Crl.A(MD) No.212 of 2024:

To set aside the order in Cr.A.No.88 of 2022 dated 22.12.2023 on the file of the Additional District and Sessions Judge(FTC), Tenkasi confirming the order passed in STC.No.1757 of 2015 dated on 27.10.2022 on the files of Judicial Magistrate, Tenkasi.

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.SC.HEROLD SINGH, Advocate for the petitioner, while admitting the Criminal Revision Case, the court made the following order:-



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This Criminal Miscellaneous Petition has been filed to suspend the sentence passed in S.T.C.No.1757 of 2015, dated 27.10.2022, on the file of the Judicial Magistrate Court, Tenkasi, pending Criminal Appeal.

2. It is the case of the petitioner that he borrowed Rs.2,50,000/- in the year 2012 from one Shanmuga Priya, his relative. She demanded signed blank cheques for the purpose of security. The main contention of the petitioner is that though he has repaid the amount, the cheques which were received by the said Shanmuga Priya was not returned to him. When he approached the police for getting back the cheques from her, she handed over the signed blank cheques to her father Murugaiah and one Iyappan and by these persons, a false case has been foisted against him and the same was taken on file in S.T.C.No.1757 of 2015 before the learned Judicial Magistrate, Tenkasi. The petitioner has preferred an appeal in Cr.A.No.88 of 2022 before the learned Additional District and Sessions Judge (Fast Track), Tenkasi and the appellate Court has also confirmed the conviction and sentence imposed by the trial Court. The petitioner was convicted and sentenced for the offence under Section 138 of the Negotiable Instrument Act 1881, to undergo one year Simple Imprisonment and to pay the cheque amount of Rs.4,00,000/- (Rupees Five Lakhs Only) as compensation to the complainant, in default to undergo three months of Simple



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Imprisonment. Aggrieved against the same, the petitioner has filed the present appeal along with the suspension of sentence petition.

3. The learned counsel for the petitioner submitted that even the complainant has admitted in his evidence that the petitioner has a transaction with the said Shanmuga Priya and the matter went to Police Station and that the Court below failed to consider the fact that the cheque was not issued for the discharge of a debt or other liability. He further submitted that the petitioner is working as a Teacher in a private School and he is taking care of his age old parents. He is the sole breadwinner of the family. Out of Rs.4,00,000/-, the petitioner has repaid Rs.80,000/- to the complainant and hence, the learned counsel prays for grant of suspension of sentence to the petitioner.

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

5. Considering the arguable points of the petitioner and the facts and circumstances of the case, this Court is of the prima facie view that the sentence is to be suspended pending this Appeal.



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6. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the Judicial Magistrate Court, Tenkasi, in S.T.C.No.1757 of 2015 dated 27.10.2022 alone is suspended, subject to the following conditions:-

(i) The petitioner shall deposit 50% of the outstanding amount i.e., Rs.1,60,000/- to the credit of S.T.C.No.1757 of 2015 on the file of the learned Judicial Magistrate, Tenkasi, within a period of four weeks from the date of receipt of a copy of this order, failing which the sentence suspended shall automatically 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, Tenkasi;

(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.



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7. Subject to the above conditions, this Criminal Miscellaneous Petition is
allowed.

sd/-
27/02/2024

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/03/2024

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

TO

1.THE ADDITIONAL DISTRICT AND SESSIONS JUDGE(FTC), TENKASI

2.THE JUDICIAL MAGISTRATE, TENKASI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI

ORDER

IN

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in

Crl.A(MD) No.212 of 2024

Date :27/02/2024

RK/VR (01/03/2024) 5P / 4C

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