



CRL MP(MD) No.4258 of 2024

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

Wednesday, the Seventeenth day of April Two Thousand and Twenty Four

PRESENT

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

CRL MP(MD) No.4258 of 2024

in

CRL RC(MD) No.374 of 2024

SELVARANI

... Petitioner / Appellant

Vs

GANESAN

... 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 Imprisonment imposed in Crl.A.No.45 of 2014 on the file of the Additional District and Sessions Judge, Srivilliputtur, dt.02.12.2022, confirming the conviction and sentence in S.T.C.NO.3410/2011 on the file of the Judicial Magistrate, Rajapalayam, Virudhunagar District dated 12.03.2024, and enlarge the petitioner on bail pending disposal of the above said criminal revision petition.

Prayer in CRL RC(MD). 374/ 2024 :

To call for the entire records pertaining to the Judgment made in Crl.A.45 of 2014 on the file the Additional District and Sessions Judge, Srivilliputtur dt.02.12.2022, confirming the conviction and sentence in S.T.C.No.3410 of 2011 on the file of the Judicial Magistrate, Rajapalayam, Virudhunagar District, dated 12.03.2014, and set aside the same and acquit the petitioner.

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.S.PRABHA, Advocate for the petitioner and of Mr.J.VISHNU, Advocaes on



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behalf of the Respondent, while admitting the criminal revision case, the Court made the following order:-

This petition is filed to suspend the sentence of imprisonment imposed on the petitioner by the learned Additional District and Sessions Judge, Srivilliputhur, in C.A.No.45 of 2014 dated 02.12.2022, in confirming the conviction and sentence imposed by the learned Judicial Magistrate, Rajapalayam, Virudhunagar District, in S.T.C.No.3410 of 2011, dated 12.03.2014, and enlarge the petitioner on bail, pending disposal of the main Criminal Revision.

2.The case of the respondent is that the petitioner borrowed a sum of Rs.1,00,000/- from the respondent, for which, he said to have executed a promissory note by agreeing to pay interest at the rate of 12% per annum. Towards repayment of such due, the petitioner said to have issued a cheque bearing No.396476, dated 03.07.2011 for a sum of Rs.1,00,000/- drawn on Canara Bank, Rajapalayam Branch. While, on 05.07.2011, the respondent presented the said cheque for payment, the same was returned with an endorsement as "Funds Insufficient", for which, on 01.08.2011, the respondent had also issued legal notice. The petitioner/accused had received the notice with acknowledgement on 05.08.2011 and further 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



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on file in S.T.C.No.3410 of 2011 before the learned Judicial Magistrate, Rajapalayam,

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Virudhunagar District.

3.During trial, the respondent himself 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 has been examined and no documents were marked.

4.The learned Judicial Magistrate, Rajapalayam, Virudhunagar District, after full-fledged trial, has passed the judgment in S.T.C.No.3410 of 2011, dated 12.03.2014, 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 compensation of Rs.1,000/- in default to undergo 3 months of Simple Imprisonment. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the learned Additional District and Sessions Judge, Srivilliputhur, in C.A.No.45 of 2014. However, the same was dismissed on 02.12.2022, 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



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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 further sum of Rs.3,00,000/- (Rupees Three Lakhs only) to the respondent. 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.3,00,000/- (Rupees Three Lakhs 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.3,00,000/- (Rupees Three Lakhs only) to the credit of S.T.C.No.3410 of 2011 on the file of the learned Judicial Magistrate, Rajapalayam, Virudhunagar District, on or before 23.08.2024, failing which the sentence



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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, Rajapalayam, Virudhunagar District;

(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.3,00,000/- in any one of the Nationalized Bank in interest bearing account.



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9. Post the matter on 27.08.2024, for reporting compliance.

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sd/-
17/04/2024

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/08/2024

Sub-Assistant Registrar
(C.S.I /II /III /IV)

Madurai Bench of Madras High Court,
Madurai - 625 023.

SBN

To

1. The Additional District and Sessions Judge,
Srivilliputhur.

2. The Judicial Magistrate,
Rajapalayam, Virudhunagar District.

3. Do through the Chief Judicial Magistrate,
Virudhunagar District at Srivilliputhur.

ORDER

IN

CRL MP(MD) No.4258 of 2024

in

CRL RC(MD) No.374 of 2024

Date :17/04/2024

ED/ GS /SAR- (05/08/2024) 6P / 4C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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