



CRL MP(MD) No.3819 of 2024

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

Wednesday, the Twenty Seventh day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.3819 of 2024

in

CRL RC(MD) No.337 of 2024

S.MANJULA

... REVISION PETITIONER/ ACCUSED

Vs

K.U.SIVAPRAKASH

... RESPONDENT/COMPLAINANT

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 in the judgment passed by the learned Judicial Magistrate No.4, Tiruchirapalli in STC No.272/2014 dt.31.10.2018 which was confirmed by the learned Principal District and Sessions Judge, Tiruchirapalli in C.A.No.151 of 2018 dated 28.01.2023 and enlarge the petitioner on bail pending disposal of the above said Criminal Revision Petition.

Prayer in CRL RC(MD). 337/ 2024 :

To call for the records relating to the judgment passed by the learned Judicial Magistrate No.4, Tiruchirapalli in STC No.272/2014 dt.31.10.2018 which was confirmed by the learned Principal District and Sessions Judge, Trichirapalli in C.A.No.151 of 2018 dated 28.01.2023 and set aside the same.

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.N.MOHIDEEN BASHA, Advocate for the petitioner and of MR.R.VENKATESAN, Advocate for M/S.RIGHT LAW ASSOCIATES 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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The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence imposed on her by the learned Principal District and Sessions Judge, Tiruchirapalli, in C.A.No.151 of 2018, dated 28.01.2023 and to enlarge her on bail, pending disposal of the Criminal Revision.

2. It is the case of the respondent/complainant that the petitioner/accused borrowed a sum of Rs.5,00,000/- from him for developing beauty parlour business, dated 02.06.2013 with an assurance to repay the same within three months and she has given a cheque to him and the same was returned as “insufficient balance”, hence, he made a complaint and the same was taken on file in S.T.C.No.272 of 2014 before the learned Judicial Magistrate No.IV, Trichirappalli. The petitioner was convicted and sentenced to undergo one year simple imprisonment and pay a compensation of Rs.5,00,000/- with two months simple imprisonment, in case of default, for the offence under Section 138 of Negotiable Instruments Act. Challenging the above said conviction and sentence, the petitioner has preferred the Criminal Appeal before the Principal District and Sessions Judge, Tiruchirapalli, in C.A.No.151 of 2018 and the same was also dismissed on 28.01.2023. Challenging the concurrent findings, the petitioner has preferred the present Criminal Revision along with the above Miscellaneous Petition seeking suspension of sentence.

3. The learned counsel for the petitioner submitted that the petitioner has



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borrowed a sum of Rs.4,50,000/- from the respondent and repaid the entire loan amount. But the respondent has cunningly informed her that the cheques and promissory notes issued by the petitioner is with his friend Mani and he will return the same once his friend gives it back. But however, the respondent has presented the cheque and foisted a false complaint against her. He further submitted that the petitioner and her husband have been separated and with an ill intention the petitioner's husband has foisted the false case with the help of the respondent herein, who is his relative. The Courts below have failed to analyze the evidences and also no proper findings were rendered in this case and hence, learned counsel prays for suspension of sentence. He further submitted that the petitioner is in custody from 24.01.2024.

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

5. The petitioner is said to have committed the offence under Section 138 of the Negotiable Instrument Act. It is the specific case of the petitioner that as per the evidence of the respondent that there is no amount due from the petitioner in respect of repayment of loan. Further, the learned counsel for the petitioner pointed out certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. So this Court prima facie satisfied that there are arguable points



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involved in this Criminal Revision Petition 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 inclined to suspend the sentence imposed on the petitioner.

6. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Principal District and Sessions Judge, Tiruchirapalli, in C.A.No.151 of 2018 dated 28.01.2023 alone is suspended, subject to the following conditions:-

i) The petitioner shall deposit 20% of the cheque amount within a period of four weeks from the date of receipt of a copy of this order.

ii) 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 Principal District and Sessions Judge, Tiruchirapalli.

iii) The petitioner shall appear and sign before the learned Principal District and Sessions Judge, Tiruchirapalli, on the first working day of every English calendar month at 10.30 a.m., until further orders.

iv) In case, if the petitioner is unable to appear before the Court on the first working day of a month, she shall appear on the next working day.

v) The petitioner shall furnish her residential address and mobile number to the Trial Court ie., learned Principal District and Sessions Judge, Tiruchirapalli.



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8. Subject to the above conditions, this Petition is allowed.

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sd/-
27/03/2024

/ TRUE COPY /

28/03/2024

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

RM

TO

- 1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE, TIRUCHIRAPPALLI.
- 2 THE JUDICIAL MAGISTRATE NO.IV, TIRUCHIRAPPALLI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TIRUCHIRAPPALLI.
- 4 THE SUPERINTEDENT, SPECIAL PRISON FOR WOMEN, TRICHY.

+1 CC to M/s.M/S.RIGHT LAW ASSOCIATES, Advocate (SR-3759[I] dated 27/03/2024)

+1 CC to M/s.N.MOHIDEEN BASHA, Advocate (SR-3770[I] dated 27/03/2024)

ORDER IN
CRL MP(MD) No.3819 of 2024
in
CRL RC(MD) No.337 of 2024
Date :27/03/2024

RS//SAR-(28.03.2024) 5P 7C
Madurai Bench of Madras High Court is issuing
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