



CRL MP(MD) No.4300 of 2024

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

Thursday, the Eighteenth day of April Two Thousand and Twenty Four

PRESENT

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

CRL MP(MD) No.4300 of 2024

in

CRL RC(MD)No. 388 of 2024

S.SHANTHI

... PETITIONER/ APPELLANT/ ACCUSED

Vs

B.MANIKANDAN

... RESPONDENT/ RESPONDENT/ COMPLAINTANT

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 and grant bail to the revision petitioner pending disposal of the Criminal revision before this Honble court against the Judgement dt. 16.10.2023 in C.A No. 115 of 2022 on the file of the Principal Sessions Judge, Thanjavur in STC No. 190 of 2018 on the file of the Learned Judicial Magistrate, Fast Track Court at Magistrate Level, Thanjavur Pending disposal of the Revision Petition on such terms and conditions.

Prayer in CRL RC(MD). 388/ 2024 :

To call for the records in Judgment in C.A No. 115 of 2022 on the file of the Principal Sessions Judge, Thanjavur dt. 16.10.2023 confirming the order of conviction

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CRL MP(MD) No.4300 of 2024

passed by the Principal Sessions Judge, Thanjavur in STC No. 190 of 2018 dt.21.07.22 passed by the Learned Judicial Magistrate, Fast Track Court at Magisterial level, Thanjavur and set aside the same and consequently acquit the revision petitione.

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.PANDI DORAI J, Advocate for the petitioner and of MR.M.P.SENTHIL, advocate for the Respondent, while admitting the Criminal Revision Case, the court made the following order:-

This petition is filed to suspend the sentence imposed on the petitioner by the learned Principal Sessions Judge, Thanjavur District, in C.A.No.115 of 2022 dated 16.10.2023, in confirming the conviction and sentence imposed by the learned Judicial Magistrate, Fast Track Court, at Magisterial Level, Thanjavur District, in S.T.C.No.190 of 2018, dated 21.07.2022 pending disposal of the main Criminal Revision.

2.The case of the respondent is that the husband of the petitioner/accused borrowed a sum of Rs.10,00,000/- from the respondent, for which, he said to have executed a promissory note dated 09.02.2017 agreeing to repay the amount with interest at the rate of 12%. Towards repayment of such due, the petitioner said to have issued a cheque bearing No.567001 dated 20.08.2018 for a sum of Rs.10,00,000/- drawn on State Bank of India, Thiruvarur. While, the respondent presented the said cheque for payment, the same was returned with an endorsement as "Insufficient



CRL MP(MD) No.4300 of 2024

Funds”, for which, on 25.08.2018, the respondent had also issued legal notice. The petitioner/accused had received the notice on 28.08.2018 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 on file in S.T.C.No.190 of 2018 before the learned Judicial Magistrate, Fast Track Court, at Magisterial Level, Thanjavur District.

3. During trial, the complainant has been examined as P.W.1 and exhibited 5 documents as Ex.P.1 to Ex.P.5 and no material objects were marked. On the side of the accused, neither a document was produced nor a witness was examined.

4. The learned Judicial Magistrate, Fast Track Court, at Magisterial Level, Thanjavur District, after full-fledged trial, has passed the judgment in S.T.C.No.190 of 2018, dated 21.07.2022, 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 further to pay compensation of Rs.10,00,000/- (Rupees Ten Lakhs Only) to the complainant within a period of two months from the date of the judgment in default to undergo one month of Simple Imprisonment. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the Principal Sessions Judge, Thanjavur District, in C.A.No.115 of 2022.

However, the same was dismissed on 16.10.2023, thereby confirming the conviction

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CRL MP(MD) No.4300 of 2024

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 also undertakes to deposit a further sum of Rs.1,00,000/- (Rupees One Lakh only) of the compensation amount to the respondent in addition to the amount of Rs.2,00,000/- already deposited during the course of hearing of appeal. 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.1,00,000/- (Rupees One Lakh only) of the compensation amount 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



CRL MP(MD) No.4300 of 2024

imprisonment alone is suspended pending disposal of the revision with the following directions:-

(i) The petitioner shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) of the compensation amount to the credit of S.T.C.No.190 of 2018 on the file of the learned Judicial Magistrate, Fast Track Court, at Magisterial Level, Thanjavur District, on or before 03.06.2024, 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, Fast Track Court at Magisterial Level, Thanjavur District;

(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



CRL MP(MD) No.4300 of 2024

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

9. Post the matter on 04.06.2024, for reporting compliance.

sd/-
18/04/2024

/ TRUE COPY /

23/04/2024
Sub-Assistant Registrar
(C.S.I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

VSG

TO

- 1 THE PRINCIPAL SESSIONS JUDGE,
THANJAVUR
- 2 THE JUDICIAL MAGISTRATE,
FAST TRACT COURT AT MAGISTERIAL LEVAL,
THANJAVUR DISTRICT.
- 3 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT @ KUMBAKONAM.



CRL MP(MD) No.4300 of 2024

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO
THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.4300 of 2024
in
CRL RC(MD)No. 388 of 2024
Date :18/04/2024

PKP/23.04.2024/ 7P/ 6C

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