



CRL MP(MD) No.3374 of 2024

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

Tuesday, the Twenty Third day of July Two Thousand and Twenty Four
PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN
CRL.M.P.(MD)No.3374 of 2024
in
CRL.R.C.(MD)No.299 of 2024

S.THIRUNAVUKARASU

... PETITIONER/PETITIONER

Vs

G.RAVICHANDRAN

... 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 upon the petitioner in judgment dt.26.10.2022 made in Crl A No.15/2021 on the file of the Additional District and Sessions Court, Virudhunagar confirming the judgement dt.25.03.2021 made in CC No.45/2016 on the file of the Judicial Magistrate No.1, Virudhunagar and enlarge to the petitioner on bail pending disposal of the above Criminal Revision Petition.

Prayer in CRL RC(MD). 299/ 2024 :

To call for the records relating to the Judgement dt.26.10.2022 in Crl A No.15/2021 on the file of the Addl District and Sessions Court, Virudhunagar confirming the judgement dt.25.03.2021 in CC No.45/2016 on the file of the Judicial Magistrate No.1, Virudhunagar and set aside the same and allow the above Criminal Revision petition.

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.M.SUDHA RANI, Advocate for the petitioner and of MRS.S.RAMASAMY, Advocate on behalf of the Respondent, the court made the following order:-

This Court has passed the following order:

“This petition is filed to suspend the sentence imposed on the



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petitioner by the learned Additional District and Sessions Court, Virudhunagar, in Crl.A.No.15 of 2021 dated 26.10.2022, in confirming the judgement passed by the learned Judicial Magistrate No.1, Virudhunagar, in C.C.No.45 of 2016, dated 25.03.2021 pending disposal of the main Criminal Revision.

2. The case of the respondent is that the petitioner borrowed a sum of Rs.3,00,000/- from the respondent agreeing to repay the sum with 1% interest per month. They said to have executed a promissory note on the same day in favour of the respondent. Towards repayment of such due, the petitioner said to have issued a cheque on 27.03.2015 . While, the complainant presented the said cheque for payment before the Indian Overseas Bank, Virudhunagar on 22.04.2015, the same was returned with an endorsement as “Insufficient Funds”, for which, on 30.05.2015, the complainant had also issued legal notice. The petitioner/accused received the notice and he did not repay the amount. Hence, the respondent filed a complaint under Section 138 of Negotiable Instruments act, and the same was taken on file in C.C.No.45 of 2016 before the learned Judicial Magistrate No.1, Virudhunagar.

3. During trial, the complainant and other have been examined as



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P.W.1 and P.W.2 and exhibited 7 documents as Ex.P.1 to Ex.P.7 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 No.I, Virudhunagar, after full-fledged trial, has passed the judgment in C.C.No.45 of 2016, dated 25.03.2021, and convicted the petitioner/accused for the offence under Section 138 r/w 142 of the Negotiable Instrument Act, and sentenced him to undergo six months Simple Imprisonment and to pay the cheque amount to the complainant in default to undergo six months of Simple Imprisonment. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the learned Additional District and Sessions Court, Virudhunagar, in Crl.A.No.15 of 2021. However, the same was dismissed on 26.10.2022, 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 arguable points involved in the criminal revision and the learned



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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 sum of Rs.1,50,000/- (Rupees One Lakh and fifty Thousand only). Hence, he seeks for the suspension of sentence.

6. Heard the learned counsel for the respondent.

7. This Court has carefully considered the submission made by the counsel for the petitioner and the learned counsel for the respondent and also perused the materials available on record.

8. Considering the fact that the petitioner undertakes to deposit a sum of Rs.1,50,000/- (Rupees One Lakh and fifty thousand only) before the trial Court 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.

9. 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.1,50,000/- (Rupees One Lakh and fifty Thousand only) of the compensation amount to the credit



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of C.C.No.45 of 2016 on the file of the learned Judicial Magistrate No.I, Virudhunagar, on or before 25.06.2024, 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 Court No.I, Virudhunagar;

(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. 10. The learned trial judge, is hereby directed to re-deposit the entire amount of Rs.1,50,000/- (Rupees one Lakh and fifty Thousand only) in any one of the Nationalized Bank in interest bearing account.

11. Post the matter on 01.07.2024, for reporting compliance.



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2. When the matter is taken up for hearing today, the learned Counsel for the petitioner submits that the petitioner is unable to generate the fund and he is now ready to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only).

3. This Court considering the request of the learned Counsel for the petitioner, this Court directs the petitioner to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) of the compensation amount to the credit of C.C.No.45 of 2016 on the file of the learned Judicial Magistrate No.I, Virudhunagar on or before 01.08.2024 and the learned Judicial Magistrate No.I, Virudhunagar is directed to accept the said amount.

4. Post the matter on 02.08.2024 for reporting compliance.

sd/-
23/07/2024

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/07/2024
Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, VIRUDHUNAGAR

2 THE JUDICIAL MAGISTRATE NO.1, VIRUDHUNAGAR

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT @ SRIVILLIPUTHUR.



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ORDER

IN

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in

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Date :23/07/2024

RS/JGB/SAR-(26.07.2024) 7P 4C

Madurai Bench of Madras High Court is issuing
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