



CRL MP(MD) No.3799 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.3799 of 2024

in

CRL RC(MD)NO.334 of 2024

G.THANGA SUDHAHAR

... PETITIONER/PETITIONER

Vs

M.CHANDRASEKHAR

... 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 vide judgment in STC No.292/2018 on the file of Fast Track Court, (Magisterial Level), Nagercoil, dated 28.09.2018 which is confirmed by the Judgment dated 21.02.2024 in Crl A No.141/2018 on the file of Additional District and Sessions Judge(Fast Track Court), Kanyakumari at Nagercoil and enlarge the petitioner on bail.

Prayer in CRL RC(MD). 334/ 2024 :

To call for the records relating to the set aside the judgment of conviction in STC No.292/2018 on the file of Fast Track Court, (Magisterial Level), Nagercoil, dated 28.09.2018 which is confirmed by the Judgment dated 21.02.2024 in Crl A No.141/2018 on the file of Additional District and Sessions Judge(Fast Track Court), Kanyakumari at Nagercoil.

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.ALAGUSUNDAR S, Advocate for the petitioner while admitting the Criminal Revision Petition., the Court made the following order:-



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The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence imposed on him by the learned Additional District and Sessions Judge, (Fast Track Court) Kanyakumari at Nagercoil, in Crl.A.No.141 of 2018, dated 21.02.2024 and to enlarge him 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.3,00,000/- from him for his family needs, dated 18.09.2013 with an assurance to repay the same and he has given a post dated 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.292 of 2018 before the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Nagercoil. The petitioner was convicted and sentenced to undergo six months simple imprisonment and pay a compensation of Rs.3,00,000/- 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 Additional District and Sessions Judge, (Fast Track Court) Kanyakumari at Nagercoil, in Crl.A.No.141 of 2018 and the same was also



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dismissed on 21.02.2024. 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 Courts below failed to consider the fact that the case of the complainant is contradictory in nature between Ex.P.3, Ex.P.4 and the complaint and the complainant failed to prove that the existence of legally enforceable debt. 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.

4. Heard the learned counsel for the petitioner 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 there is no amount due from the petitioner in respect of his loan amount to the respondent. Further, the learned counsel for the petitioner pointed out certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. So



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this Court *prima facie* satisfied that there are arguable points 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 Additional District and Sessions Judge, (Fast Track Court) Kanyakumari at Nagercoil, in Crl.A.No.141 of 2018 dated 21.02.2024 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 Additional District and Sessions Judge, (Fast Track Court) Kanyakumari at Nagercoil.

iii) The petitioner shall appear and sign before the learned Additional District and Sessions Judge, (Fast Track Court) Kanyakumari at Nagercoil, on the first working day of every English calender 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.



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v) The petitioner shall furnish her residential address and mobile number to the Trial Court ie., learned Additional District and Sessions Judge, (Fast Track Court) Kanyakumari at Nagercoil.

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

sd/-  
27/03/2024

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

RM

TO

- 1 THE JUDGE, FAST TRACK COURT,  
MAGISTERIAL LEVEL, NAGERCOIL.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,  
KANYAKUMARI DISTRICT AT NAGERCOIL.
- 3 THE ADDITIONAL DISTRICT AND  
SESSIONS JUDGE, FAST TRACK COURT,  
KANYAKUMARI AT NAGERCOIL.

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

+1 CC to M/s.S.ALAGUSUNDAR, Advocate ( SR-3811[I] dated 27/03/2024 )



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ORDER  
IN  
CRL MP(MD) No.3799 of 2024  
in  
CRL RC(MD)NO.334 of 2024  
Date :27/03/2024

SS/JGB/SAR- /02/04/2024/6P/6C

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