



CRL.M.P.(MD)No.4378 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.M.P.(MD)No.4378 of 2024

in

CRL.R.C.(MD)No.404 of 2024

R.KANAGARAJ

... PETITIONER/PETITIONER

Vs

NAGAMANI AMMAL

... 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 by the Learned 1st Additional Sessions Judge, Tirunelveli dt.23.02.2024 in C.A.No.33 of 2022 confirming Judgment of Learned Judicial Magistrate, Special Court for Exclusive Trial of Negotiable Instrument Act Tirunelveli in S.T.C.No.464 of 2019 dated 07.06.2022 and enlarge the petitioner on bail pending disposal of main revision.

Prayer in CRL RC(MD). 404/ 2024 :

To allow this Criminal Revision and call for the records pertaining to Judgment passed by Learned Ist Additional Sessions Judge, Tirunelveli dt.23.02.2024 in C.A.No.33 of 2022 confirming Judgment of Learned Judicial Magistrate, Special Court for Exclusive Trial of Negotiable Instrument Act, Tirunelveli in S.T.C.No.464 of 2019 dated 07.06.2022 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.DILIPKUMAR, Advocate for the petitioner, while admitting the Criminal Revision Case, the court made the following order:-



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This petition is filed to suspend the sentence imposed on the petitioner by the learned Ist Additional Sessions Judge, Tirunelveli, in C.A.No.33 of 2022 dated 23.02.2024, in confirming the conviction and sentence imposed by the learned Judicial Magistrate, Special Court for Exclusive Trial of Negotiable Instrument Act, Tirunelveli, in S.T.C.No.464 of 2019, dated 07.06.2022 pending disposal of the main Criminal Revision.

2.The case of the respondent is that the respondent and the petitioner are well known to each other, the petitioner had to pay an amount of Rs.7,50,000/- to the respondent herein. On 19.10.2009, the respondent demanded the petitioner for the payment of the said sum, the petitioner issued two cheques drawn bearing Nos.011501 and 011502. The respondent presented the said two cheques before the bank and the same was returned stating that "funds insufficient". Thereafter, the respondent issued notice to the petitioner on 30.12.2009 and the same was received by the petitioner on 31.12.2009 and sent an evasive reply to the respondent's advocate on 07.01.2010 stating false and frivolous allegations. 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.464 of 2019 before the learned Judicial Magistrate, Special Court for Exclusive Trial of Negotiable Instrument Act, Tirunelveli.



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3. During trial, the complainant was examined as P.W.1 and exhibited 8 documents as Ex.P.1 to Ex.P.8 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, Special Court for Exclusive Trial of Negotiable Instrument Act, Tirunelveli, has passed the judgment in S.T.C.No.464 of 2019, dated 07.06.2022, 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 to pay compensation of Rs.7,50,000/- (Rupees Seven Lakhs and Fifty Thousand Only) to the complainant within a period of two weeks from the date of the judgment in default to undergo two months of Simple Imprisonment. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the learned I Additional Sessions Judge, Tirunelveli, in C.A.No.33 of 2022. However, the same was dismissed on 23.02.2024, 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.



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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. 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 imprisonment alone is suspended pending disposal of the revision with the following

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directions:-
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(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.464 of 2019 on the file of the learned Judicial Magistrate, Special Court for Exclusive Trial of Negotiable Instrument Act, Tirunelveli, on or before 15.05.2024, 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, Special Court for Exclusive Trial of Negotiable Instrument Act, Tirunelveli,

(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.

9. The learned trial judge, is hereby directed to re-deposit the entire amount of



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Rs.1,00,000/- which was already deposited by the petitioner, in any one of the
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Nationalized Bank in interest bearing account.

sd/-
17/04/2024

/ TRUE COPY /

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

TTA

TO

1.THE JUDICIAL MAGISTRATE, SPECIAL COURT FOR EXCLUSIVE TRIAL OF
NEGOTIABLE INSTRUMENT ACT,
TIRUNELVELI,

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.

3.THE 1ST ADDITIONAL SESSIONS JUDGE, TIRUNELVELI

+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-4556[I] dated 17/04/2024)

ORDER
IN
CRL.M.P.(MD)No.4378 of 2024
in
CRL.R.C.(MD)No.404 of 2024
Date :17/04/2024



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RK/GS (25/04/2024) 7P / 5C

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