



CRL MP(MD) No.4249 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Friday, the Twelfth day of April Two Thousand and Twenty Four

PRESENT

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

CRL MP(MD) No.4249 of 2024

in

CRL RC(MD) No.372 of 2024

VASANTHAKUMARI

... PETITIONER/ APPELLANT/ ACCUSED (SINGLE)

Vs

JOTHIMANI

... RESPONDENT/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 enlarge the petitioner on bail by suspending the sentence imposed by the learned II Additional District and Sessions Judge, Thanjavur District in C.A.No.268 of 2023 dt,21.03.2024, whereby confirming the conviction and sentence imposed by the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Thanjavur District in S.T.C.No.143 of 2022 dated 20.10.2023 pending disposal of the main Criminal Revision.

Prayer in CRL RC(MD). 372/ 2024 :

To call for the entire records pertaining to the judgment passed by the Learned II Additional District and Sessions Judge, Thanjavur District in C.A.No.268 of 2023, dt.21.03.2024, whereby confirming the conviction and sentence imposed by the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Thanjavur District in S.T.C.No.143 of 2022 dated 20.10.2023 and set aside the same and consequently acquit the petitioner.



CRL MP(MD) No.4249 of 2024

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.S.BALAJI, Advocate for the petitioner, 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 II Additional District and Sessions Judge, Thanjavur District, in C.A.No.268 of 2023 dated 21.03.2024, 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.143 of 2022, dated 20.10.2023 pending disposal of the main Criminal Revision.

2.The case of the respondent is that the respondent is a friend of one Kannan and he only introduced the respondent to the husband of the petitioner/accused. On 20.12.2021, the petitioner and her husband borrowed a sum of Rs.5,00,000/- from the respondent for meeting out their daughter marriage expenses, for which, 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 bearing No.123862 dated 12.04.2022 for a sum of Rs.5,00,000/- drawn on State Bank of India, V.O.C.Nagar Branch, Thanjavur. While, the complainant presented the said cheque for payment on 16.04.2022, the same was returned with an endorsement as "Exceeds Arrangement" on 18.04.2022, for which, on 27.04.2022, the complainant had also issued legal notice. The petitioner/accused did not receive the notice and further the



CRL MP(MD) No.4249 of 2024

WEB COPY

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.143 of 2022 before the learned Judicial Magistrate, Fast Track Court, at Magisterial Level, Thanjavur District.

3. During trial, the complainant and other have been examined as P.W.1 and P.W.2 and exhibited 10 documents as Ex.P.1 to Ex.P.10 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.143 of 2022, dated 20.10.2023, 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.5,00,000/- (Rupees Five Lakhs Only) to the complainant within a period of one month 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 II Additional District and Sessions Judge, Thanjavur District, in C.A.No.268 of 2023. However, the same was dismissed on 21.03.2024, thereby confirming the conviction and sentence imposed on the petitioner. Aggrieved over the above said



CRL MP(MD) No.4249 of 2024

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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.1,00,000/- 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 imprisonment alone is suspended pending disposal of the revision with the following



CRL MP(MD) No.4249 of 2024

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.143 of 2022 on the file of the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Thanjavur District, on or before 29.04.2024, 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 first working day of every English calendar month at 10.30 a.m., until further orders.

8.1. The learned trial judge, is hereby directed to re-deposit the entire amount of Rs.2,00,000/- in any one of the Nationalized Bank in interest bearing account.



CRL MP(MD) No.4249 of 2024

9. Post the matter on 30.04.2024, for reporting compliance.

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sd/-
12/04/2024

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/04/2024

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

vsg

TO

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

+1. C.C. to MR.S.BALAJI Advocate SR.No.20081[F] Dated 15/04/2024

ORDER IN
CRL MP(MD) No.4249 of 2024
in CRL RC(MD) No.372 of 2024
Date :12/04/2024

RS/JGB/SAR-(18.04.2024) 6P 5C
Madurai Bench of Madras High Court is issuing
certified copies in this format from 17/07/2023