



CRL.M.P.(MD)No.5032 of 2024

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

Tuesday, the Thirtieth day of April Two Thousand and Twenty Four

PRESENT

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

CRL.M.P.(MD)No.5032 of 2024
in
CRL.R.C.(MD)No.462 of 2024

RADHAI

... PETITIONER/ APPELLANT

Vs

1 S.HARIHARASUBRAMANIAN

...1ST RESPONDENT/1ST RESPONDENT

2 STATE OF TAMIL NADU

REP. BY THE PUBLIC PROSECUTOR,
NAGERCOIL.

...2ND RESPONDENT/2ND 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 dated 4/4/2018 passed by learned Fast Track Judicial Magistrate No.1 at Nagercoil in STC No.212/2016 which has also confirmed by learned Additional District and Sessions Judge,Nagercoil vide his Judgment dated 05.04.2024 passed in C.A.No.66 of 2018 and enlarge the petitioner on bail pending disposal of the above revision petition.

Prayer in CRL RC(MD). 462/ 2024 :

To call for the records pertains to the Judgment dated 5/4/2024 passed by Learned Additional District and Sessions Judge, Nagercoil in CA.No.66/2018 which has confirmed the Judgment dated 4/4/2018 passed by learned Fast Track Judicial Magistrate I at Nagercoil in STC No.212 of 2016 and set aside the same.



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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.ARUL T, Advocate for the petitioner and of MR.M.MUTHUMANIKKAM, Government Advocate(Crl.side) on behalf of the Respondent No.2, 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 Additional District and Sessions Judge, Nagercoil, in C.A.No.66 of 2018 dated 05.04.2024 in confirming the judgment of conviction and sentence made in S.T.C.No.212 of 2016 on the file of the learned Judicial Magistrate No.1, Fast Track Court @ Magisterial Level, Nagercoil, dated 04.04.2018 and enlarge the petitioner on bail pending disposal of the main Criminal Revision.

2.The case of the respondent is that the petitioner and the first respondent are close relatives. The petitioner is working as Special Assistant in the Meenakshpuram Branch Canara Bank. The petitioner's husband died after prolong illness. In the meantime, the accused has been constructing a house at Nagercoil. Therefore, she was in need of money and hence, the petitioner on 20.02.2013 has borrowed a sum of Rs.6,00,000/- (Rupees Six Lakhs Only) from the first respondent and to repay the same, the petitioner herein has issued a cheque on 25.03.2013 for a sum of Rs.6,00,000/- (Rupees Six Lakhs only). On 04.04.2013, the first respondent presented



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the said cheque for collection, the same was dishonoured and returned with endorsement "Account Closed". Therefore, the first respondent issued a legal notice to the petitioner both to his office and the residential address through his advocate on 15.04.2013. The notice sent to his residential address was returned with postal intimation "Not claimed". But the notice sent to his office address has been received by the accused on 17.04.2013. The petitioner sent a reply notice through his advocate on 04.05.2013 with false allegations. Hence, the first respondent filed a complaint under Section 138 of Negotiable Instruments Act, and the same was taken on file in S.T.C.212 of 2016 before the learned Judicial Magistrate No.1, Fast Track Court @ Magisterial Level, Nagercoil.

3.During trial, the complainant has been examined as P.W.1 and the (Manager) Canara Bank, Kottar Branch has also been examined as 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.1, Fast Track Court, at Magisterial Level, Nagercoil, after full-fledged trial, has passed the judgment in S.T.C.No.212 of 2016, dated 04.04.2018, and convicted the petitioner for the offence under Section 138 of the



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Negotiable Instrument Act, and sentenced him to undergo six months of Simple Imprisonment and to pay compensation of Rs.6,00,000/- (Rupees Six Lakhs Only) to the complainant/first respondent herein 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 learned Additional District and Sessions Judge, Nagercoil, in C.A.No.66 of 2018. However, the same was dismissed on 05.04.2024, 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.

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 50% of the cheque amount to the first respondent. Hence, he seeks for the suspension of sentence.



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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 sum of Rs.3,00,000/- (Rupees Three Lakhs only) i.e., 50% of the cheque 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 directions:-

(i) The petitioners shall deposit a sum of Rs.3,00,000/- (Rupees Three Lakhs only) of the compensation amount i.e., 50% to the credit of S.T.C.No.212 of 2016 on the file of the learned Judicial Magistrate No.1, Fast Track Court at Magisterial Level, Nagercoil, within a period of four weeks from the date of receipt of a copy of this order, failing which the sentence suspended shall automatically be dismissed and the first respondent is at liberty to execute the sentence imposed by the trial Court against the petitioners in the manner known to law;



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(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 No.1, Fast Track Court at Magisterial Level, Nagercoil;

(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. On such deposit being made, the learned trial judge, is hereby directed to re-deposit the said amount of Rs.3,00,000/- (Rupees Three Lakhs only) in any one of the Nationalized Bank in interest bearing account.



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9.Post the matter on 18.06.2024, for reporting compliance.

sd/-
30/04/2024

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/05/2024

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

SBN

TO

1.THE JUDICIAL MAGISTRATE NO.1,
FAST TRACK COURT AT MAGISTERIAL LEVEL, NAGERCOIL.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI @ NAGERCOIL

3. THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,NAGERCOIL

4.THE PUBLIC PROSECUTOR, NAGERCOIL.

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

+1 CC to M/s.S.SUKUMAR, Advocate (SR-5290[I] dated 02/05/2024)

ORDER
IN

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in

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Date :30/04/2024



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RK/GS (03/06/2024) 8P / 7C

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