



CRL MP(MD) No.5513 of 2024

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

Thursday, the Sixth day of June Two Thousand and Twenty Four

PRESENT

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

CRL MP(MD) No.5513 of 2024

in

CRL RC(MD)No. 520 of 2024

1 M/S.GOLDEN HANDLOOMS
THROUGH ITS AUTHORIZED SIGNATORY
P.RAJESH,

2 P.RAJESH

... PETITIONERS/PETITIONERS

Vs

M.SHEK MOHAMED SYED ALI

... 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 V Additional District and Sessions Judge, Madurai made in Criminal Appeal No.100 of 2021 dated 18.03.2024 confirming the Judgment passed by the Learned Judicial Magistrate Court No.4, Madurai in S.T.C.No. 199 of 2019 dated 06.09.2021, pending disposal of this Criminal Revision and release the petitioner on bail.

Prayer in CRL RC(MD). 520/ 2024 :

To call for the records of the impugned common Judgment dated 18.03.2024 in Crl.A.No.100 of 2021 passed by the Learned V Additional District and Sessions Judge, Madurai confirming the Judgment passed by the Learned Judicial Magistrate No.4,

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Madurai in STC No. 199 of 2019 dated 06.09.2021 and set aside the same by allowing the 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.GEORGE PAUL ANTO.L, Advocate for the petitioner, the court made the following order:-

This petition is filed to suspend the sentence imposed on the petitioners by the learned V Additional District and Sessions Judge, Madurai, in C.A.No.100 of 2021 dated 18.03.2024, in confirming the conviction and sentence imposed by the learned Judicial Magistrate Court No.4, Madurai, in S.T.C.No.199 of 2019 dated 06.09.2021 pending disposal of the main Criminal Revision.

2. The case of the respondent is that the second petitioner borrowed a sum of Rs.16,00,000/- from the respondent and he stated that he will repay the said amount within 12 months. Towards repayment of such due, the second petitioner said to have issued a cheque bearing No.694109, dated 05.07.2017 for a sum of Rs.16,00,000/- drawn on ING Vysya Bank. While, the respondent presented the said cheque for payment, the same was returned with an endorsement as “ wrongly delivered not drawn on us”, for which, on 04.08.2017, the respondent had also issued legal notice. The second petitioner/accused had received the notice and further the second petitioner has not paid any amount and sent a reply with false particulars. Hence, the respondent filed a complaint under Section 138 of Negotiable Instruments act and the



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same was taken on file in S.T.C.No.199 of 2019 before the learned Judicial Magistrate No.4, Madurai.

3. During trial, on the side of the respondent, three witnesses have been examined as P.W.1 to P.W.3 and exhibited 20 documents as Ex.P.1 to Ex.P.20 and no material objects were marked. On the side of the accused, two witnesses have been examined as D.W.1 and D.W.2 and exhibited 5 documents as Ex.D1 to Ex.D5.

4. The learned Judicial Magistrate No.4, Madurai, after full-fledged trial, has passed the judgment in S.T.C.No.199 of 2019, dated 06.09.2021, and convicted the second petitioner/accused for the offence under Section 138 of the Negotiable Instrument Act, and sentenced him to undergo six months Simple Imprisonment and to pay a compensation of Rs.16,00,000/- in default to undergo one month of Simple Imprisonment. Challenging the above said conviction and sentence, the second petitioner preferred the Criminal Appeal before the learned V Additional District and Sessions Judge, Madurai, in C.A.No.100 of 2021. However, the same was dismissed on 18.03.2024, thereby confirming the conviction and sentence imposed on the second petitioner. Aggrieved over the above said conviction and sentence, imposed by the Courts below, the petitioners 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 second 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 complainant is the Advocate and he is the legal Adviser to the second petitioner and also submitted that the alleged cheque was misused by the complainant. He further submitted that the second petitioner undertakes to deposit a sum of Rs.4,00,000/- (Rupees Four Lakhs only). Hence, he seeks for the suspension of sentence.

6. This Court has carefully considered the submission made by the counsel for the petitioners and also perused the materials available on record.

7. Considering the fact that the second petitioner undertakes to deposit a further sum of Rs.4,00,000/- (Rupees Four Lakhs only) and there was no antecedent against the second 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:-

(i) The second petitioner shall deposit a sum of Rs.4,00,000/- (Rupees Four Lakhs only) to the credit of S.T.C.No.199 of 2019 on the file of the learned Judicial Magistrate No.4, Madurai, on or before 30.07.2024, 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 second petitioner in the manner known to law;

(ii) On such deposit, the second 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.4, Madurai;

(iii) The sureties shall affix her 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 her identity; and

(iv) The second 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
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further orders.

8.1. On such deposit being made, the learned trial judge, is hereby directed to re-deposit the amount of Rs.4,00,000/- in any one of the Nationalized Bank in interest bearing account.

9. Post the matter on 31.07.2024, for reporting compliance.

sd/-
06/06/2024

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

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TO

1 THE V ADDITIONAL DISTRICT AND
SESSIONS JUDGE, MADURAI.

2 THE JUDICIAL MAGISTRATE NO.4
MADURAI.

3 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.



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+1 CC to M/s.L.GEORGE PAUL ANTO, Advocate (SR-6212[I] dated 07/06/2024)

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ORDER
IN
CRL MP(MD) No.5513 of 2024
in
CRL RC(MD)No. 520 of 2024
Date :06/06/2024

PKP/JGB/SAR /25.07.2024/ 7P/5C

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