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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 MP(MD) No.5112 of 2024

in

CRL RC(MD) No.468 of 2024

G.ROBERT SAM

... PETITIONER/PETITIONER

Vs

1 M.KINGSTON JEYASINGH

2 THE STATE OF TAMIL NADU,
REP.BY PUBLIC PROSECUTOR
NAGERCOIL.

... RESPONDENTS/RESPONDENTS

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 in STC No.159/2018 dt 29.05.2018 on the files of Fast Track Court (Magisterial Level) Nagercoil Confirmed in Crl.A.No.73/2018 dated 05.04.2024 on the files of Additional District and Sessions Court (FTC) Kanyakumari District at Nagercoil pending disposal of this Criminal Revision Petition.

Prayer in CRL RC(MD). 468/ 2024 :

To call for the records and set aside the order in Crl.A.No.73/2018 dt 05.04.2024 on the file of Additional District and Sessions Court (FTC) Kanyakumari District at Nagercoil confirming the order passed in STC No.159/2018 dated 29.05.2018 on the files of Fast Track Court (Magisterial Level) 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 MR.S.C.HEROLD SINGH, Advocate for the petitioner and of MR.M.MUTHUMANIKKAM, Government Advocate (Crl.Side) on behalf of the 2nd Respondent, while admitting the Criminal Revision Case, the court made the following order:-

<https://www.mhc.tn.gov.in/jsp/> This petition is filed to suspend the sentence imposed on the petitioner by the



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learned Principal District and Sessions Judge (FTC), Kanyakumari District, Nagercoil, in C.A.No.73 of 2018 dated 05.04.2024 in confirming the judgment of conviction and sentence made in S.T..C.No.159 of 2018 on the file of the learned Judicial Magistrate, Fast Track Court @ Magisterial Level, Nagercoil, dated 29.05.2018 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 known to each other. The petitioner is the proprietor of GeeBee Construction. On 25.01.2012, the petitioner borrowed a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) from the first respondent for his personal needs. The transaction took place in the house of the first respondent. Thereafter, to repay the same, the petitioner herein has issued a cheque for a sum of Rs.10,00,000/- (Rupees Ten Lakhs only). The first respondent herein presented the cheque for collection on 17.01.2013 through the State Bank of India, on 18.01.2013 the cheque issued by the petitioner was dishonoured for the reason "Funds Insufficient". Therefore, the first respondent issued a legal notice to the petitioner on 30.01.2013 through his counsel. On 01.02.2013, the petitioner herein has sent a reply through his counsel with false averments. 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.159 of 2018 before the learned Judicial Magistrate, Fast Track Court @ Magisterial Level, Nagercoil.



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3. During trial, the complainant has been 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, Fast Track Court, at Magisterial Level, Nagercoil, after full-fledged trial, has passed the judgment in S.T.C.No.159 of 2018, dated 29.05.2018, and convicted the petitioner for the offence under Section 138 of the Negotiable Instrument Act, and sentenced him to undergo six months of Simple Imprisonment and to pay compensation of Rs.10,00,000/- (Rupees Ten 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 Principal District and Sessions Judge, Nagercoil, in C.A.No.73 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



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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 sum of Rs.3,50,000/- (Rupees Three Lakh and Fifty Thousand only) of the compensation amount to the first 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 sum of Rs.3,50,000/- (Rupees Three Lakh and Fifty Thousand 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 directions:-

(i) The petitioners shall deposit a sum of Rs.3,50,000/- (Rupees Three Lakh and Fifty Thousand only) of the compensation amount to the credit of S.T.C.No.158 of 2018 on the file of the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Nagercoil, within a period of four weeks from the date of receipt of a copy of



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this order, failing which the sentence suspended shall automatically 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;

(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, 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.3,50,000/- (Rupees Three Lakh and Fifty Thousand only) in any one of the Nationalized Bank in interest bearing account.

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

sd/-

30/04/2024

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/05/2024

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



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1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE (FTC),
KANYAKUMARI DISTRICT, NAGERCOIL.

2 THE JUDICIAL MAGISTRATE, FAST TRACK COURT @ MAGISTERIAL LEVEL,
NAGERCOIL.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

4 THE PUBLIC PROSECUTOR, NAGERCOIL.

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

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-5172[I] dated 30/04/2024)

ORDER
IN
CRL MP(MD) No.5112 of 2024
in
CRL RC(MD) No.468 of 2024
Date :30/04/2024

RS/VR/SAR-(31.05.2024) 6P 7C
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