



CRL MP(MD) No.5067 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 MP(MD) No.5067 of 2024

in

CRL RC(MD) No.467 of 2024

VASUKI

... Petitioner / Appellant / Accused

Vs

JEYARAJ

... 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 suspend the sentence imposed on the petitioner Sivagangai District dt. 21.03.2023 in C.C No. 123 of 2012 confirmed in C.A No. 31 of 2023 on the file of the learned Additional District Judge, Additional District court, Sivagangai district dated 26.03.2024 and enlarge the petitioner on bail.

Prayer in CRL RC(MD). 467/ 2024 :

To call for the records and set aside the judgment passed in C.C No. 123 of 2012 the learned Judicial Magistrate No.1, Sivagangai District dt. 21.03.2023 confirmed in C. A No. 31 of 2023 and the learned Additional District Judge, Additional District Court, Sivagangai District, confirmed the same by his judgment dated 26.03.2024 and allow this criminal revision petition.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of G.THALAIMUTHURASU, 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 Additional District Judge, Additional District Court, Sivagangai District, in C.A.No.31 of 2023 dated 26.03.2024, in confirming the conviction and sentence imposed by the learned Judicial Magistrate No.I, Sivagangai District, in C.C.No.123 of 2012, dated 21.03.2023, pending disposal of the main Criminal Revision.

2.The case of the respondent is that the petitioner borrowed a sum of Rs.12,00,000/- from the respondent. Towards repayment of such due, the petitioner said to have issued a cheque bearing No.009997, dated 16.08.2012 for a sum of Rs.12,00,000/- drawn on IDBI Bank, Sivagangai. While, the respondent presented the said cheque for payment, the same was returned with an endorsement as “Funds Insufficient”, for which, on 25.08.2012, the respondent had also issued legal notice. The petitioner/accused had received the notice and further, the petitioner sent reply notice on 29.08.2012 and did not make any payment. Hence, the respondent filed a complaint under Section 138 of Negotiable Instruments act, and the same was taken on file in C.C.No.123 of 2012 before the learned Judicial Magistrate No.1, Sivagangai.

3.During trial, on the side of the respondent, one witness has been examined as P.W.1 and exhibited 5 documents as Ex.P.1 to Ex.P.5 and no material objects were marked. On the side of the accused, four witnesses have been examined as D.W.1 to



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D.W.4 and exhibited 1 document as Ex.D1.

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4.The learned Judicial Magistrate No.1, Sivagangai, after full-fledged trial, has passed the judgment in C.C.No.123 of 2012, dated 21.03.2023, 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 a compensation of Rs.12,00,000/- and in default to undergo two months Simple Imprisonment. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the learned Additional District Judge, Additional District Court, Sivagangai District, in C.A.No.31 of 2023. However, the same was dismissed on 26.03.2024, 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 a further sum of Rs.2,00,000/-(Rupees One



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Lakh only) of the compensation amount to the respondent in addition to the amount of Rs.3,00,000/- 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.2,00,000/- (Rupees Two Lakhs 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 petitioner shall deposit a sum of Rs.2,00,000/- (Rupees Two Lakhs only) of the compensation amount to the credit of C.C.No.123 of 2012 on the file of the learned Judicial Magistrate No.1, Sivagangai, on or before 29.07.2024, failing which, the sentence suspended shall automatically be dismissed and the respondent is at liberty to execute the sentence imposed by the trial



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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 No.1, Sivagangai;

(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.

9.1. The learned trial judge, is hereby directed to re-deposit the entire amount of Rs.5,00,000/- in any one of the Nationalized Bank in interest bearing account.

10. Post the matter on 30.07.2024, for reporting compliance.

sd/-
30/04/2024

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05/07/2024
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 Additional District Judge,
Additional District Court,
Sivagangai District.

2.The Judicial Magistrate No.I,
Sivagangai.

3.Do through the Chief Judicial Magistrate,
Sivagangai District.

+1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-5149[I] dated 30/04/2024)

ORDER

IN

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in

CRL RC(MD) No.467 of 2024

Date :30/04/2024

ED/ /SAR- (05/07/2024) 6P / 5C

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