



CRL MP(MD) No.6670 of 2024

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

Thursday, the Eleventh day of July Two Thousand and Twenty Four
PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN
CRL MP(MD) No.6670 of 2024
in
CRL RC(MD) No.657 of 2024

SAMINATHAN

... PETITIONER/PETITIONER

Vs

RAMESH

... 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 in C.A.No.67/2016 by the Principal Sessions Judge, Trichy dated 23.02.2018 by confirming the judgement and conviction in STC No.789/2012 by the Judicial Magistrate Court, Manapparai dated 22.06.2016 and enlarge the petitioner on bail.

Prayer in CRL RC(MD) No.657 of 2024 :

To call for the records and set aside the order in C.A.No.67 of 2016 by the Principal Sessions Judge, Trichy dated 23.02.2018 by the Judicial Magistrate Court, Manapparai, dated 22.06.2016.

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.T.LENIN KUMAR, 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 Principal Sessions Judge, Trichy, in C.A.No.67 of 2016 dated 23.02.2018, in confirming the conviction and sentence imposed by the learned Judicial Magistrate



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Court, Manapparai, in S.T.C.No.789 of 2012, dated 22.06.2016 pending disposal of the
main Criminal Revision.

2.The case of the respondent is that the respondent and the petitioner are well known to each other, the petitioner borrowed a sum of Rs.4,50,000/- from the respondent and agreed to pay the said amount with interest at the rate of 12 percent per annum for which he had executed a promissory note. The respondent demanded the petitioner for the payment of the said sum and the petitioner issued cheque drawn bearing No.556942. The respondent presented the said cheque before the bank and the same was returned stating that “insufficient funds”. Thereafter, the respondent issued notice to the petitioner on 16.08.2012 and the same was returned on 21.08.2012 as unclaimed. 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.789 of 2012 before the learned Judicial Magistrate Court, Manapparai.

3.During trial, on the side of the complainant two witnesses were examined examined as P.W.1 and P.W.2 and exhibited 5 documents as Ex.P.1 to Ex.P.5 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, Manapparai, has passed the judgment in S.T.C.No.789 of 2012, dated 22.06.2016 and convicted the petitioner/accused for the



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offence under Section 138 of the Negotiable Instrument Act and sentenced him to undergo six months Simple Imprisonment and to pay compensation of Rs.5,00,000/- (Rupees Seven Lakhs and Fifty Thousand Only) to the complainant 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 Principal Sessions Judge, Trichy, in C.A.No.67 of 2016. However, the same was dismissed on 23.02.2018, 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 have 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 two Lakhs only) before the Judicial Magistrate, Manappari. 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.



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7. Considering the fact that the petitioner undertakes to deposit a further sum of Rs.2,00,000/- (Rupees Two Lakhs only) 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) to the credit of S.T.C.No.789 of 2012 on the file of the learned Judicial Magistrate, Manapparai, on or before 29.07.2024, 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 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, Manapparai;

(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



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first working day of every English calendar month at 10.30 a.m., until further orders.

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(v). On such deposit being made, the learned trial judge, is hereby directed to re-deposit the amount of Rs.2,00,000/- (Rupees Two Lakhs only) in any one of the Nationalized Bank in interest bearing account.

9. Post the matter on 30.07.2024 for reporting compliance.

sd/-

11/07/2024

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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 JUDICIAL MAGISTRATE, MANAPPARAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TRICHY DISTRICT.

3 THE ADDITIONAL PUBLIC PROSECUTOR,

MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

CRL MP(MD) No.6670 of 2024
in CRL RC(MD) No.657 of 2024

Date :11/07/2024

RS/VR/SAR-(24.07.2024) 5P 4C

Madurai Bench of Madras High Court is issuing
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