



CrI.R.C.(MD).No.598 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 26.06.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CrI.R.C(MD)No.598 of 2024

Shakira Banu

... Petitioner

Vs.

Jeyavallappados

... Respondent

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the entire records pertaining to Cr.M.P.No.249 of 2024 in Criminal Appeal No.12 of 2024 on the file of the learned Principal District and Sessions Judge, Virudhunagar at Srivilliputtur and to set aside the order passed therein on 15.02.2024.

For Petitioner : Mr.C.M.Arumugam



Crl.R.C.(MD).No.598 of 2024

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ORDER

This Criminal Revision Case has been filed to call for the entire records pertaining to Cr.M.P.No.249 of 2024 in Criminal Appeal No.12 of 2024 on the file of the learned Principal District and Sessions Judge, Virudhunagar at Srivilliputtur and to set aside the order passed on 15.02.2024.

2. The respondent filed a private complaint under Section 138 of Negotiable Instrument Act in C.C.No.78 of 2019 before Judicial Magistrate No.II, Sattur, Virudhunagar District. After full trial, the learned Judge convicted the petitioner for the offence under Section 138 of NI Act and sentenced to undergo simple imprisonment for a period of six months and to pay a compensation of Rs.8,30,025/- to the complainant, in default to undergo one month simple imprisonment.

3. Challenging the said conviction, the petitioner has filed C.A.No.12 of 2024 before the learned Principal District and Sessions Judge, Virudhunagar at Srivilliputtur, along with Cr.M.P.No.249 of 2024 to suspend the sentence against the order passed by the Judicial Magistrate No.II, Sattur, Virudhunagar District.



Crl.R.C.(MD).No.598 of 2024

4. The Principal District and Sessions Judge, Virudhunagar at Srivilliputtur allowed Cr.M.P.No.249 of 2024 and the relevant portion of the said order is extracted as follows:-

In the result, the execution of sentence of imprisonment is suspended till the disposal of this appeal and the petitioner/appellant/accused shall be released on bail on the following terms:-

“ i) The petitioner shall deposit a sum of Rs.1,66,005/- (Rupees one Lakh sixty six thousands and five only) (20% of the compensation amount) before the trial Court within one month.

ii) The petitioner shall execute a personal bond for Rs. 25,000/- with two sureties for the like sum to the satisfaction of the Judicial Magistrate No.II, Sattur.

iii) The petitioner shall appear before the Additional District and Sessions Court, Virudhunagar for hearing on 28.02.2024 and on further hearing dates in C.A.No.12 of 2024.”

5. Due to financial crisis, the petitioner could not comply with the above said conditions within the stipulated time. Therefore, the petitioner has filed a petition in Cr.M.P.No.944 of 2024 seeking extension of time and the same was allowed on 15.03.2024 and the relevant portion of the said order is extracted as



CrI.R.C.(MD).No.598 of 2024

follows:

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“ Having considered the submission that the accused could not obey the order due to her illness and financial crisis, this Court inclined to allow this application. Accordingly, the petition is allowed and the time is extended for further two weeks from the date of this order to the petitioner to comply the order of this Court passed in Cr.M.P.No.249 of 2024 in C.A.No.12 of 2024 dated 15.02.2024.”

6. The above said order is also not complied with by the petitioner. Therefore, once again he filed extension petition in Cr.M.P.No.1119 of 2024 and the same was also allowed on 01.04.2024 and the relevant portion of the order is extracted as follows :

" The learned counsel for the petitioner has contented that due to unavoidable circumstances, the petitioner was unable to arrange the deposit amount (i.e) 20% of the cheque amount of Rs.1,66,005/- and hence he was unable to surrender before the Court concerned within the stipulated time limit as per the order passed in Cr.M.P.No. 249 of 2024 dated 15.02.2024 by this Court. Hence this petitioner prays to allow this application.

Having considered the submission of both side, the petitioner could not obey the order of this Court due to the delay in arranging



Crl.R.C.(MD).No.598 of 2024

WEB COPY

the deposit amount, this Court is inclined to allow this application.

Accordingly, the petition is allowed and the time is extended upto 12.04.2024 to comply with the order of this Court in Cr.M.P(MD).No.249 of 2024 dated 14.02.2024."

7. The above said order is also not complied with by the petitioner within the time. Therefore, he filed third extension petition in Cr.M.P.No.1273 of 2024 and the same was dismissed on 16.04.2024.

8. Considering the above all the circumstances that the petitioner has not complied the condition imposed by this court inspite of granting time to comply the order, this Court is inclined to dispose of the case on merits.

9. The Learned appellate judge correctly considered the trial court judgment and admitted relationship of business transaction, imposed the condition to deposit 20% of the cheque amount to grant suspense of sentence which is also in accordance with the principle laid down by the Hon'ble Supreme Court in the case of ***Surinder Singh Deswal v. Virender Gandhi***, reported in ***2019 (11) SCC 341***. Therefore this court does not find any merits in the revision petition.



Crl.R.C.(MD).No.598 of 2024

10. Accordingly this Criminal Revision Case is dismissed. The judicial magistrate No. II, Sattur, Virudhunagar District is directed to secure the petitioner and sent him to prison to serve the remaining period of sentence imposed in C.C.No. 78 of 2019.

26.06.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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To

1. The Principal District and Sessions Court,
Virudhunagar at Srivilliputtur.
2. The Judicial Magistrate No.II,
Sattur, Virudhunagar District.
- 3.The Section Officer,
Record Section (Criminal),
Madurai Bench of Madras High Court, Madurai.



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Crl.R.C.(MD).No.598 of 2024

K.K.RAMAKRISHNAN, J.

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Crl.RC(MD)No.598 of 2024

26.06.2024