



CRL MP(MD) No.5230 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Wednesday, the Twelfth day of June Two Thousand and Twenty Four
PRESENT

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

CRL.M.P.(MD)No.5230 of 2024
in
CRL.R.C.(MD)No.484 of 2024

L.DEVANARAYANAN

... PETITIONER/PETITIONER

Vs

R.MAYALAGU

... 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 in Crl.A.No.25/2022 dt 02.04.2024 on the file of the Honourable IV Additional Sessions Judge Madurai Confirming the judgment of conviction and sentence passed against the petitioner in STC No.134/2016 dt 28.03.2022 on the file of the file of the Hon`ble Judicial Magistrate No.I (FTC)(Magistrate Level), Madurai and enlarge the petitioner on bail pending disposal of the above Criminal Revision on the file of this Hon`ble Court.

Prayer in CRL.RC(MD).484/2024:

Pleased to call for the records in Crl.A.No.25/2022 dated 02.04.2024 on the file of the Hon`ble IV Additional Session Judge, Madurai confirming the Judgment and of conviction and sentence passed against the petitioner in S.T.C.No.134/2016 dated 28.03.2022 on the file of the Hon`ble Judicial Magistrate No.I (FTC) (Magistrate Level), Madurai and set aside the same as devoid of merits by allowing this Criminal 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.HAJA MOHIDEEN.A, 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

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learned IV Additional Sessions Judge, Madurai , in Crl.A.No.25 of 2022 dated 02.04.2024, in confirming the conviction and sentence imposed by the learned Judicial Magistrate No.I, Fast Track Court (Magisterial Level), Madurai, in S.T.C.No.134 of 2016, dated 28.03.2022 pending disposal of the main Criminal Revision.

2.The case of the respondent is that the petitioner approached the respondent and promised him to get a job opportunity for his son and he borrowed a sum of Rs.2,50,000/- from the complainant in June 2013. While borrowing the said amount, the petitioner promised to repay the loan amount within a period of three months. However, after the lapse of three months, when the complainant demanded the return of money, the accused issued two cheques drawn at State Bank of India, Karimedu Branch, Madurai bearing Nos.169419 dated 05.11.2013 for a sum of Rs.1,25,000/- and another cheque bearing No.169418 dated 05.10.2013 for a sum of Rs.1,00,000/-. The respondent presented the cheque on 08.11.2013 and the same was returned as Funds Insufficient. Demanding the cheque amount, legal notice was issued to the petitioner and he received the same on 23.11.2013. Despite the legal notice, the petitioner neither come forward to pay the cheque not caused any reply. 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.134 of 2016 before the learned Judicial Magistrate No.I, Fast Track Court (Magisterial Level), Madurai.



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3. During trial, the complainant has been examined himself as P.W.1 and Ex.P.1 to Ex.P.4 documents were marked. On the side of the accused, neither a document was produced nor a witness was examined.

4. The learned Judicial Magistrate No.I, Fast Track Court (Magisterial Level), Madurai, after full-fledged trial, has passed the judgment in S.T.C.No.134 of 2016, dated 28.03.2022, and convicted the 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 compensation of Rs.1,25,000/- (Rupees One Lakh Twenty Five Thousand Only) I.e., the amount due upon the cheque, 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 IV Additional Sessions Judge, Madurai, in Crl.A.No.25 of 2022. However, the same was dismissed on 02.04.2024, 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.50,000/- (Rupees Fifty Thousand only) of the compensation amount. 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.50,000/- (Rupees 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 petitioner shall deposit a sum of Rs.50,000/- (Rupees Fifty Thousand only) of the compensation amount to the credit of S.T.C.No.134 of 2016 on the file of the learned Judicial Magistrate No.I, Fast Track Court (Magisterial Level), Madurai, on or before 28.06.2024, failing which the sentence suspended shall automatically dismissed and the respondent is at liberty to execute the sentence



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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 No.I, Fast Track Court (Magisterial Level), Madurai,.

(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. The learned trial judge, is hereby directed to re-deposit the entire amount of Rs.50,000/- in any one of the Nationalized Bank in interest bearing account.

sd/-
12/06/2024

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/06/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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JBR

TO

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1_ THE IV ADDITIONAL SESSIONS JUDGE, MADURAI.

2_ THE JUDICIAL MAGISTRATE NO.I,

FAS TRACK COURT (MAGISTERIAL LEVEL), MADURAI.

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

COPY TO:

THE SECTION OFFICER,

CRIMINAL SECTION,

MADURAI BENCH OF MADRAS HIGH COURT,

MADURAI.(CALL FOR RECORDS)

+1 CC to M/s.A.HAJA MOHIDEEN, Advocate (SR-6371[I] dated 12/06/2024)

ORDER IN

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Date :12/06/2024

SA/VR/SAR. /24.06.2024/6P/6C

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