



CRL MP(MD) No.5727 of 2024

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

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

CRL MP(MD) No.5727 of 2024
in
CRL RC(MD)No.556 of 2024

D.VASANTHA

... PETITIONER/PETITIONER

Vs

A.NAGALAKSHMI

... 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 judgment dt 12.12.2023 made in STC No.78/2021 on the file of the Judicial Magistrate, Fast Track Court, ML, Theni which was confirmed the conviction by dismissing the appeal judgment dated 29.04.2024 made in Crl.A No.5 of 2024 on the file of the Additional District Court,(FTC), Theni pending disposal of the Criminal Revision Petition.

PRAYER in CRL RC(MD)No.556 of 2024:

To call for records and allow the Criminal Revision Petition and set aside the Judgment dated 29.04.2024 made in Crl.A.No.5 of 2024 on the file of Additional District Court,(FTC), Theni confirming the conviction Judgment dated 12.12.2023 made in S.T.C.No.78 of 2021 on the file of Judicial Magistrate, Fast Track Court, (M.L), Theni.

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.GOKUL.K, Advocate for the petitioner while admitting the Criminal Revision Petition.,, the Court made the following order:-



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This petition is filed to suspend the sentence imposed on the petitioner by the Additional District Court, Fast Track Court (Magisterial Level), Theni, in Crl.A.No.5 of 2024 dated 29.04.2024, in confirming the conviction and sentence imposed by the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Theni, in S.T.C.No.78 of 2021, dated 12.12.2023 pending disposal of the main Criminal Revision.

2.The case of the respondent is that in the month of August, 2020, the petitioner received a sum of Rs.9,00,000/- as hand loan. The petitioner has issued a cheque for Rs.9,00,000/- bearing No.811053 dated 16.02.2021. On 16.02.2021, the respondent deposited the cheque with the Karur Vysya Bank, Theni Branch. However, the said cheque was returned with an endorsement "Funds Insufficient". Therefore, on 12.03.2021, notice was issued to the petitioner and the petitioner received the same on 16.03.2021. Even after the receipt of the legal notice, the petitioner neither paid any amount nor sent 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.78 of 2021 before the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Theni.

3. During trial, the complainant has been examined as P.W.1 and Ex.P.W.1 to Ex.P.W.6 documents were marked. On the side of the accused, D.W.1 to D.W.3 were



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examined and Ex.D.1 and Ex.D.2 documents were marked.

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4.The learned Judicial Magistrate,Fast Track Court (Magisterial Level), Theni, after full-fledged trial, has passed the judgment in S.T.C.No.78 of 2021, dated 12.12.2023, 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 compensation of Rs.9,00,000/- (Rupees Nine Lakhs Only) to the complainant within a period of two months from the date of the judgment in default to undergo two months of Simple Imprisonment. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the Additional District Court, Fast Track Court (Magisterial Level), Theni, in Crl.A.No.5 of 2024 However, the same was dismissed on 29.04.2024, 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 Appellate Judge has not considered the evidence in proper prospective and hence, the judgments are suffered from perversity. He further submitted that the



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petitioner has also undertakes to deposit a further sum of Rs.2,00,000/- (Rupees Two Lakh only) of the compensation amount to the respondent in addition to the amount of Rs.1,80,000/- (Rupees One Lakh Eighty Thousand only) 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 Lakh 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 Lakh only) of the compensation amount to the credit of S.T.C.No.78 of 2021 on the file of the learned Judicial Magistrate, Fast Track Court (Magisterial Level), Theni, on or before 29.06.2024, failing which the sentence suspended shall automatically be dismissed and the respondent is at liberty to execute the sentence imposed by the trial Court



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against the petitioner in the manner known to law;

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(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 (Magisterial Level), Theni.

(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.3,80,000/- in any one of the Nationalized Bank in interest bearing account.

sd/-
11/06/2024

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

JBR



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TO சென்னை

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1 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT, MAGISTERIAL LEVEL, THENI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.

+1 CC to M/s.K.GOKUL, Advocate (SR-6368[I] dated 12/06/2024)

ORDER
IN
CRL MP(MD) No.5727 of 2024
in
CRL RC(MD)No.556 of 2024
Date :11/06/2024

SS/VR/SAR- /19/06/2024/6P/4C

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