



CRL MP(MD) No.7189 of 2024

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

Tuesday, the Sixteenth day of July Two Thousand and Twenty Four

PRESENT

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

CRL MP(MD) No.7189 of 2024

in

CRL RC(MD)No.695 of 2024

A.ARULRAJ JEYASINGH

... PETITIONER/PETITIONER

Vs

P.CHANDRASEKARAN

... 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 by the Principal Sessions Judge, Thoothukudi in Criminal Appeal.No.27 of 2024 dated 09.02.2024 confirming the judgment and sentence passed by the learned Fast Track Court (M.L) in S.T.C.No,198 of 2022 dt.13.12.2023 and to enlarge the petitioner on bail pending disposal of the above said Criminal Revision Petition.

Prayer in CRL RC(MD). 695/ 2024 :

To call for the records pertaining to the order dated 09.02.2024 passed by the Learned Principal Sessions Judge, Thoothukudi in Cr.M.P.No.1128 of 2024 in C.A.No.27 of 2024 dated 09.02.2024 and set aside the same

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 MR.K.NAVANEETHARAJA, Advocate for the petitioner and of Mr.T.SELVAN, Advocate on behalf of the Respondent 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 learned Fast Track Court (Magistrate Level), Thoothukudi, in S.T.C.No.198 of 2022 dated 13.12.2023 and to enlarge the petitioner on bail pending disposal of the main Criminal Revision.

2.The case of the respondent is that the petitioner borrowed a sum of Rs.8,00,000/- from the respondent, for which, he said to have executed a promissory note dated 21.02.2019 and agreed to repay the amount within a period of 12 months. Towards repayment of such due, the petitioner said to have issued a cheque bearing No.000002 dated 21.02.2020 for a sum of Rs.08,00,000/-. While, the respondent presented the said cheque for payment, the same was returned with an endorsement as “account closed”, for which, on 21.05.2020, the respondent sent a registered post to the petitioner for the repayment of the said amount and the petitioner received the said post on 22.05.2020 and sent a reply letter seeking further time. Thereafter, the petitioner has not paid the said amount. 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.198 of 2022 before the learned Fast Track Court (Magistrate Level), Thoothukudi. .



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3. During trial, the complainant has been examined as P.W.1 and exhibited 11 documents as Ex.P.1 to Ex.P.11 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 Fast Track Court (Magistrate Level), Thoothukudi, after full-fledged trial, has passed the judgment in S.T.C.No.198 of 2022, dated 13.12.2023, and convicted the petitioner/accused for the offence under Section 138 of the Negotiable Instrument Act, and sentenced him to undergo two years of Simple Imprisonment and further to pay compensation of Rs.08,00,000/- (Rupees Eight Lakhs Only) to the complainant within a period of one month 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 learned Principal Sessions Judge, Thoothukudi, in C.A.No.27 of 2024 along with the suspension of sentence imposed against the conviction passed in S.T.C.No.198 of 2022. The learned Appellate Judge suspended the sentence of imprisonment with condition to deposit of 25% of the cheque amount and the same was not complied with by the petitioner and hence, he was arrested and confined in the Prison. Now, the petitioner challenged the said order passed in Cr.M.P.No.1128 of 2024.



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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 is ready to deposit the said amount and 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 is ready to deposit the said amount of Rs.1,60,000/- and also considering the period of incarceration from 10.05.2024 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:-



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(i) The petitioner shall deposit a sum of **Rs.1,60,000/- (Rupees One Lakh and sixty Thousand only)** to the credit of S.T.C.No.198 of 2022 on the file of the learned Fast Track Court (Magistraterial Level), Thoothukudi, **on or before 30.07.2024**, 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 Fast Track Court (Magisterial Level), Thoothukudi,;

(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. On such deposit being made, the learned trial judge, is hereby directed to re-deposit the entire amount of Rs.1,60,000/- in any one of the Nationalized Bank in interest bearing account.



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9.Post the matter on **31.07.2024**, for reporting compliance.

sd/-
16/07/2024

/ TRUE COPY /

16/07/2024
Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

TTA

TO

- 1 THE PRINCIPAL SESSIONS JUDGE,
THOOTHUKUDI.
 - 2 THE JUDGE,
FAST TRACK COURT,(MAGISTRATE LEVEL),
THOOTHUKUDI.
 - 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI.
 - 4 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
 - 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s.K.NAVANEETHA RAJA, Advocate (SR-8000[I] dated 16/07/2024)



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ORDER
IN
CRL MP(MD) No.7189 of 2024
in
CRL RC(MD)No.695 of 2024
Date :16/07/2024

SS/SAR- /16/07/2024/7P/7C

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