



CRL MP(MD) No.7074 of 2024

WEB COPY

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

Thursday, the Eighteenth day of July Two Thousand and Twenty Four

PRESENT

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

CRL.M.P.(MD)No.7074 of 2024

in

CRL.R.C.(MD)No.684 of 2024

K.VINOTH KUMAR

... PETITIONER/PETITIONER

Vs

B.RAMESHBABU

... 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 of one year simple imprisonment and the compensation of amount of Rs.800000/- within the two months as per section 357(3) of Criminal Procedure code in default 3 months simple imprisonment were passed by learned Judicial Magistrate No.1 (Fast Track Court), Madurai in STC No.68 of 2017 dated 16.08.2018 by convicting the petitioner for offences under section 138 of Negotiable Instrument Act which was confirmed by the Judgement of VI Additional District and Sessions Court, Madurai in Criminal Appeal No.57/2022 dated 15.04.2024.

Prayer in CRL RC(MD). 684/ 2024 :

To call for the records and set aside the judgement of VI th Additional Distrit and Sessions Court, Madurai in Criminal Appeal No.57/2022 dt 15.04.2024 confirming judgement of conviction and sentence ordered by the learned Judicial Magistrate No.I (Fast Track Court), Madurai in STC.No.68 of 2017 dated 16.08.2022 convicted the Appellant/Accused for offences under section 138 of Negotiable Instrument Act and imposed the sentence of one year simple imprisonment and

<https://www.mhc.tn.gov.in/judis>



CRL MP(MD) No.7074 of 2024

directed Appellant herein to pay the compensation of Rs.8,00,000/- to Respondent/Complainant within two months as per section 357(3) of Criminal Procedure Code in default to undergo 3 months simple imprisonment.

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.A.JEYARAM, 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 VI Additional District and Sessions Court, Madurai, in C.A.No.57 of 2022, dated 15.04.2024, in confirming the conviction and sentence imposed by the learned Judicial Magistrate No.1(Fast Track Court, Madurai in S.T.C.No.68 of 2017, dated 16.08.2022 and enlarge the petitioner on bail pending disposal of the main Criminal Revision.

2. The case of the respondent is that on 10.09.2016, the petitioner has borrowed a loan of Rs.8,00,000/- for his emergency expenses and business development and agreed to repay the said loan amount within two months with interest of Rs.100/- with interest of Rs.2/-. The petitioner had not repaid the loan amount with interest, within the said period of two months. When the respondent was presented in the bank, the same was returned with "insufficient money" in his bank account. On 14.12.2016, the respondent's lawyer sent a notice to the petitioner asking for the said check amount. Since the petitioner received the notice, dated 16.12.2016 and did not return the money. Hence the respondent lodged a complaint under Section 138 of the

Negotiable Instrument Act.

<https://www.mbc.tn.gov.in/judis>



CRL MP(MD) No.7074 of 2024

WEB COPY

3. During trial, the complainant has examined as P.W.1 and exhibited 4 documents as Ex.P.1 to Ex.P.4 and no material objects were marked. On the side of the accused, 2 were examined and one documents was exhibited as Ex.D1.

4. The learned Judicial Magistrate No.1(Fast Track Court, Madurai, after full-fledged trial, has passed the judgment in S.T.C.No.68 of 2017, dated 16.08.2022 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 a compensation of Rs.8,00,000/- (Rupees Eight Lakhs Only) to the complainant within two months, in default to undergo two months Simple Imprisonment. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the VI Additional District and Sessions Court, Madurai, in C.A.No.57 of 2022. However, the same was dismissed on 15.04.2024, 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.



CRL MP(MD) No.7074 of 2024

WEB COPY

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 has also undertakes to deposit a further sum of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only) of the compensation amount to the respondent in addition to the amount 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.2,50,000/- (Rupees Two Lakhs and 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.



CRL MP(MD) No.7074 of 2024

WEB COPY

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.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only)** of the compensation amount to the credit of S.T.C.No.68 of 2017 on the file of the learned Judicial Magistrate No.I, Fast Track Court, Madurai, **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 Judicial Magistrate No.1(Fast Track Court, 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.



CRL MP(MD) No.7074 of 2024

WEB COPY

8.1.The learned trial judge, is hereby directed to re-deposit the entire amount of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only) in any one of the Nationalized Bank in interest bearing account.

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

sd/-
18/07/2024

/ TRUE COPY /

22/07/2024
Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

RJR

TO

- 1 THE JUDICIAL MAGISTRATE NO.I,
(FAST TRACK COURT), MADURAI.
- 2 DO THROUGH THE CHIEF JUDICIAL
MAGISTRATE, MADURAI DISTRICT.
- 3 THE VI ADDITIONAL DISTRICT &
SESSIONS JUDGE, MADURAI.



WEB COPY



CRL MP(MD) No.7074 of 2024

ORDER
IN
CRL MP(MD) No.7074 of 2024
in
CRL.R.C.(MD)No.684 of 2024
Date :18/07/2024

SS/SAR. /22.07.2024/7P/4C

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