



CRL MP(MD) No.6498 of 2024

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

Monday, the First day of July Two Thousand and Twenty Four

PRESENT

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

CRL MP(MD) No.6498 of 2024

in

CRL RC(MD) No.636 of 2024

P.KARUNANITHI

... Petitioner / Petitioner

Vs

T.PANDIYAN

... 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 Court of the II Addl District and Sessions Judge, Thanjavur in Crl A No.29/2024 on 08.04.2024 in confirming the conviction and sentence passed by the Judicial Magistrate (Fast Tract Court) Thanjavur in S.T.C.No.31 of 2022 on 13.10.2023 and release the petitioner on bail pending disposal of the criminal revision petition.

Prayer in CRL RC(MD). 636/ 2024 :

To call for records and setaside the conviction and sentence imposed by the II Addl District and Sessions Judge, Thanjavur in Crl A No.29/2024 on 08.04.2024 in Confirming the conviction and sentence passed by the Judicial Magistrate (Fast Track Court) Thanjavur in S.T.C.No.31 of 2022 on 13.10.2023 and allow 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 P.PRABHAKARAN, Advocate for the petitioner, while admitting the criminal revision case, the court made the following order:-



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This petition is filed to suspend the sentence imposed on the petitioner by the II Additional District and Sessions Judge, Thanjavur, in C.A.No.29 of 2024, dated 08.04.2024, in confirming the conviction and sentence imposed by the learned Judicial Magistrate(Fast Track Court), Thanjavur, in S.T.C.No.31 of 2022, dated 13.10.2023 and release the petitioner on bail pending disposal of the Criminal Revision Petition.

2. The case of the prosecution is that by Selvaraj, the opponent of the complainant was introduced. Based on that, on 27.07.2019, he received a sum of Rs.1,65,000/- for his family expenses and promised to repay the said amount within a month. After few months later, he also requested a sum of Rs.1,00,000/- on promise to return the same within three months. He got totally a sum of Rs.2,65,000/- and after that the complainant threatened him for asking several times. It has also been stated in the complaint that the cheque bearing No.474111 issued by Canara Bank, Ramanathapuram branch to the complainant for encashment in his bank account at Thanjavur, State Bank Branch on 04.09.2021, when it was paid for collection on 04.09.2021, the same was returned on 06.09.2021 with 'Signature Differs'. Then, a notice was sent to the opponent through the advocate on 05.10.2021 stating that the details of the said cheque being returned, and the opponent received a notice on 08.10.2021 and did not send any reply. The complaint was lodged as



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against the petitioner at Tanjore Medical College Police Station. The case was registered under Section 138 of the Negotiable Instrument Act and the same was taken on file in S.T.C.No.31 of 2022 before the learned Judicial Magistrate(Fast Track Court), Thanjavur.

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 as D.W.1 and D.W.2 and no documents were exhibited.

4. The learned Judicial Magistrate(Fast Track Court), Thanjavur, after full-fledged trial, has passed the judgment in S.T.C.No.31 of 2022, dated 13.10.2023 and convicted the petitioner/accused for the offence under Section 138 of the Negotiable Instrument Act, and sentenced him to undergo one year Rigour Imprisonment and to pay a compensation of Rs.1,65,000/- (Rupees One Lakh Sixty Five Thousand Only) to the complainant within one month, in default to undergo two months Simple Imprisonment. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the II Additional District and Sessions Judge, Thanjavur, in Crl.A.No.29 of 2024. However, the same was dismissed on 08.04.2024, thereby confirming the conviction and sentence imposed on the petitioner. Aggrieved over the above said conviction and sentence, imposed



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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 petitioner has also undertaken to deposit a further sum of Rs.50,000/- (Rupees Fifty Thousand only) of the compensation amount to the respondent in addition to already deposited amount of Rs.33,000/- (Rupees Thirty Three Thousand only) 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.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



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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.31 of 2022 on the file of the learned Judicial Magistrate (Fast Track Court), Thanjavur on or before 26.07.2024 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(Fast Track Court), Thanjavur;

(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.



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8.1.The learned trial judge, is hereby directed to re-deposit the entire amount of Rs.83,000/- in any one of the Nationalized Bank in interest bearing account.

9.Post the matter on 29.07.2024, for reporting compliance.

sd/-
01/07/2024

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02/07/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

RJR

To

1.The II Additional District and Sessions Judge,
Thanjavur.

2.The Judicial Magistrate,
Fast Track Court, Thanjavur.

3.Do through the Chief Judicial Magistrate,
Thanjavur District at Kumbakonam.

+1 CC to M/s.P.PRABHAKARAN, Advocate (SR-7201[I] dated 01/07/2024)

ORDER
IN
CRL MP(MD) No.6498 of 2024
in
CRL RC(MD) No.636 of 2024
Date :01/07/2024



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ED/ /SAR- (02/07/2024) 7P / 5C

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