



CRL MP(MD) No.7085 of 2024

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

Friday, the Twelfth day of July Two Thousand and Twenty Four

PRESENT

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

CRL MP(MD) No.7085 of 2024

in

CRL RC(MD)NO. 685 of 2024

R.BALAMURUGAN

... PETITIONER/APPELLANT/ ACCUSED

Vs

ANANTHAVELU

... RESPONDENT/RESPONDENT/COMPLAINANT

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 the Judgment made in STC no. 58 of 2020 on the file of the Fast track court (Magisterial level) Pattukottai dt. 30.03.2021 as confirmed by the judgment dt. 10.10.2022 made in Crl Appeal No. 47 of 2021 on the file of the III Additional District and Sessions Judge, Thanjavur @ Pattukottai and enlarge the petitioner on the bail, pending disposal of the above criminal Revision Case.

Prayer in CRL RC(MD). 685/ 2024 :

To allow the revision and set aside the conviction and sentence dt. 30.03.2021 made in STC No. 58 of 2020 on the file of the Fast track Court (Magisterial Level) Pattukottai as confirmed by the judgment dt. 10.10.2022 made in Crl Appeal No. 47 of 2021 on the file of the III Additional District and Sessions Judge, Thanjavur @ Pattukottai.

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

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MR.N.ANANDA KUMAR, Advocate for the petitioner and of MR.S.POORNACHANDRAN, Advocate on behalf of the Respondent, while admitting the Criminal Revision Case, the court made the following order:-

This petition has been filed to suspend the sentence of the judgment made in S.T.C.No.58 of 2020 on the file of the Fast Track Court(Magisterial Level), Pattukottai dated 30.03.2021, as confirmed by the Judgment dated 10.10.2022, made in Crl.A.No.47 of 2021 on the file of the II Additional District and Sessions Judge, Thanjavur @ Pattukottai and enlarge the petitioner on the bail, pending disposal of the above Criminal Revision case.

2. The case of the respondent is that the complainant and the accused are friends for the past 7 years. On 15.05.2019, the accused borrowed a hand loan for a sum of Rs.7,00,000/- (Rupees Seven Lakh only) from the complainant. The accused agreed to repay the loan amount within a year. But the accused failed to repay the amount within the stipulated time. On 26.05.2020, the complainant approached the accused and demanded the amount. On the same day the accused issued the cheque dated 28.07.2020 for Rs.7,00,000/- to the complainant. On 24.08.2020, when the complainant presented the same, it was dishonoured with "Funds Insufficient". Hence, the Complainant issued the statutory notice dated 23.09.2020 to the Accused. The notice was duly served on the accused on 24.09.2020. After receipt of the notice,



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the accused has not returned the cheque amount to the complainant within 15 days from the date of receipt of the statutory notice. Hence he lodged a complaint under Section 138 of the Negotiable Instrument Act.

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, D.W.1 was examined and no documents were exhibited.

4. The learned Fast Track Court(Magisterial Level), Pattukottai, after full-fledged trial, has passed the judgment in S.T.C.No.58 of 2020, dated 30.03.2021 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.7,00,000/- (Rupees Seven Lakhs Only) to the complainant within a period of one month and in default to undergo three months Simple Imprisonment. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the III Additional District and Sessions Court, Thanjavur @ Pattukottai in C.A.No.47 of 2021. However, the same was dismissed on 10.10.2022, 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.



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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 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 learned Counsel for the petitioner disputed the issuance of cheque, existence of legally enforceable debt and also undertakes to deposit a further sum of Rs.2,50,000/- (Rupees One Lakh and Fifty Thousand only) of the compensation amount and there was no antecedent against the petitioner and he is in judicial custody from 11.06.2024 and there are some arguable points involved in this criminal revision case, 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.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only) of the compensation amount to the credit of S.T.C.No.58 of 2020 on the file of the Fast Track Court (Magisterial Level), Pattukottai, on or before 29.07.2024, failing which the sentence suspended shall automatically be dismissed and the respondent is at liberty to execute the sentence imposed by the trial Court 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 Court (FTC), Pattukottai;

(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 is exempted to appear before the trial Court.

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.



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9.Post the matter on 30.07.2024, for reporting compliance.

sd/-
12/07/2024

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12/07/2024
Sub-Assistant Registrar
(C.S.I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

RJR

TO

- 1 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT, PATTUKOTTAI.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT @ KUMBAKONAM
- 3 THE III ADDITIONAL DISTRICT
AND SESSIONS JUDGE, THANJAVUR @ PATTUKOTTAI.
- 4 THE SUPERINTENDENT
CENTRAL PRISON, TRICHY DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.



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THE SECTION OFFICER, (CALL FOR ORIGINAL RECORDS)
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.N.ANANDA KUMAR, Advocate (SR-7861[I] dated 12/07/2024)

ORDER
IN
CRL MP(MD) No.7085 of 2024
in
CRL RC(MD)NO. 685 of 2024
Date :12/07/2024

PKP/12.07.2024/ 7P/ 8C

Madurai Bench of Madras High Court is issuing certified
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