



CRL MP(MD) No.7778 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Thursday, the First day of August Two Thousand and Twenty Four

PRESENT

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

CRL MP(MD) No.7778 of 2024
in
CRL RC(MD)No.736 of 2024

ASIR YUVARAJA

... PETITIONER/REVISION PETITIONER

Vs

STEPHEN AMBUROSE

... 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 STC No. 1027/2017 dt. 19.12.2022 on the file of the learned Judicial Magistrate court, Alangulam confirmed in judgment dt. 20.09.2023 made in C.A No. 5/2023 on the file of the learned Additional District and Sessions Judge, Tenkasi and enlarge the petitioner on bail, pending disposal of the above criminal revision petition.

PRAYER in CRL RC(MD)No.736 of 2024:

To call for the records and set aside the judgment and sentence passed by the learned Additional District and Sessions Judge, Tenkasi in C.A No. 5/2023 dt. 20.09.2023 against the STC No. 1027/2017 on the file of the learned Judicial Magistrate Court, Alangulam dated 19.12.2022 and allow the 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 Mr.P.AJU TAGORE, 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 learned Additional District and Sessions Judge, Tenkasi, in C.A.No.5 of 2023, dated 20.09.2023, in confirming the conviction and sentence imposed by the learned Judicial Magistrate, Alangulam, in S.T.C.No.1027 of 2017, dated 19.12.2022 and release the petitioner on bail pending disposal of the Criminal Revision Petition.

2. The case of the prosecution is that the petitioner and the complainant are close friends. On 07.06.2015, the complainant has received a loan of Rs.1,75,000/- from the petitioner. For the above said loan, the complainant has given a cheque bearing No.00640 dated 10.06.2015 for Rs.75,000/- and on one more cheque bearing No.131622 dated 10.06.2015 was given to him for Rs.1,00,000/-. On 10.06.2015, both cheques were presented for payment, it was returned "Funds insufficient" by Memo dated 12.06.2015 from Tamil Nadu Mercantile Bank. Hence, the complainant has lodged a complaint before the respondent police and FIR was registered under Sections 138 of Negotiable Instrument Act and the same was taken on file in S.T.C.No.1027 of 2017, before the learned Judicial Magistrate, Alangulam.

3. During trial, the complainant has examined as P.W.1 and exhibited 7



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documents as Ex.P.1 to Ex.P.7 and no material objects were marked. On the side of the accused, no witnesses were examined and no documents were exhibited.

4. The learned Judicial Magistrate, Alangulam, after full-fledged trial, has passed the judgment in S.T.C.No.1027 of 2017, dated 19.12.2022 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.1,00,000/- (Rupees One Lakh Only) to the complainant within one month, in default to undergo one month 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.5 of 2023. However, the same was dismissed on 20.09.2023, 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 the petitioner has already deposited a sum of Rs.20,000/-(Rupees Twenty Thousand only) and also the petitioner is in custody 14.06.2024. Hence, he seeks for the suspension of sentence.



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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 in custody 14.06.2024 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:-

(i) 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 Judicial Magistrate Court, Alangulam;

(ii) 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



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(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.

sd/-
01/08/2024

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01/08/2024
Sub-Assistant Registrar()
Madurai Bench of Madras High Court,
Madurai - 625 023.

RJR

TO

- 1 THE ADDITIONAL DISTRICT AND
SESSIONS JUDGE, TENKASI.
- 2 THE JUDICIAL MAGISTRATE,
ALANGULAM
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.
- 4 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.P.AJU TAGORE, Advocate (SR-9225[I] dated 01/08/2024)



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ORDER
IN
CRL MP(MD) No.7778 of 2024
IN
CRL RC(MD)No.736 of 2024
Date :01/08/2024

SS/SAR- /01/08/2024/6P/7C

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