



CRL MP(MD) No.7336 of 2024

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

Wednesday, the Twenty Fourth day of July Two Thousand and Twenty Four

PRESENT

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

CRL MP(MD) No.7336 of 2024

IN

CRL RC(MD)No. 708 of 2024

PRABHAKARAN

**... PETITIONER/PETITIONER
/ APPELLANT/ ACCUSED**

Vs

NATARAJAN

**... RESPONDENT/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 against the petitioner/petitioner/appellant/accused passed in C.A.No.35/2023 dt 08.07.2024 on the file of the learned Principal Sessions Judge, Sivagangai confirming the sentence passed in CC.No.90/2021 dt 17.03.2023 on the file of the learned Judicial Magistrate Fast Track Court, Karaikudi and enlarge him on bail till the disposal of the revision petition.



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Prayer in CRL RC(MD). 708/ 2024 :

To call for the records relating to the judgment passed in C.A.No.35/2023 dt 08.07.2024 on the file of the learned Principal Sessions Judge, Sivagangai confirming the order of conviction and sentence passed in CC.No.90/2021 dt 17.03.2023 on the file of the learned Judicial Magistrate Fast Track Court, Karaikudi and set aside the same and acquit the petitioner/appellant/accused from the charge leveled against him.

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.R.VENKATESWARAN, Advocate for the petitioner, the court made the following order:-

This petition is filed to suspend the sentence imposed on the petitioner by the learned Principal Sessions Judge, Sivagangai, in C.A.No.35 of 2023 dated 08.07.2024, in confirming the conviction and sentence imposed by the learned Judicial Magistrate Fast Track Court, Karaikudi, in C.C.No.90 of 2021, dated 17.03.2023 pending disposal of the main Criminal Revision.

2. The case of the respondent is that the respondent and the petitioner are well known to each other, the petitioner borrowed a sum of Rs.6,00,000/- from the respondent for his family expenditure. The respondent demanded the petitioner for the payment of the said sum and the petitioner issued cheque and the respondent



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presented the said cheque before the bank for collection and the same was returned stating that “insufficient funds”. Thereafter, the respondent issued notice to the petitioner on 07.04.2021 and the same was served on 08.04.2021. Hence, the respondent filed a complaint under Section 138 of Negotiable Instruments Act and the same was taken on file in C.C.No.90 of 2021 before the learned Judicial Magistrate Fast Track Court, Karaikudi.

3. During trial, the complainant was 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, no one was examined as witnesses and one document was marked as Ex.D1.

4. The learned Judicial Magistrate Fast Track Court, Karaikudi, has passed the judgment in C.C.No.90 of 2021, dated 17.03.2023, and convicted the petitioner/accused for the offence under Section 138 of the Negotiable Instrument Act, and sentenced him to undergo six months Simple Imprisonment and to pay compensation of Rs.6,00,000/- (Rupees Six Lakhs Only) to the complainant within a period of 15 days from the date of the judgment in default to undergo three months of Simple Imprisonment. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the learned Principal Sessions Judge,

Sivagangai, in C.A.No.35 of 2023. However, the same was dismissed on 08.07.2024,

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thereby confirming the conviction and sentence imposed on the petitioner by the learned Judicial Magistrate Fast Track Court, Karaikudi, in C.C.No.90 of 2021, dated 17.03.2023. 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 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.1,00,000/- (Rupees One Lakh only) of the compensation amount to the respondent. 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.1,00,000/- (Rupees One Lakh 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.1,00,000/- (Rupees One Lakh only) of the compensation amount to the credit of C.C.No.90 of 2021 on the file of the learned Judicial Magistrate Fast Track Court, Karaikudi, on or before 01.08.2024, 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 Fast Track Court, Karaikudi,

(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



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first working day of every English calendar month at 10.30 a.m., until further orders.

9.The learned trial judge, is hereby directed to re-deposit the entire amount of Rs.1,00,000/- which was already deposited by the petitioner, in any one of the Nationalized Bank in interest bearing account.

10. Post the matter on 02.08.2024 for reporting compliance.

sd/-
24/07/2024

/ TRUE COPY /

25/07/2024
Sub-Assistant Registrar (Judicial)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TTA
TO

- 1 THE PRINCIPAL SESSIONS JUDGE
SIVAGANGAI.
- 2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT, KARAIKUDI.
- 3 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.



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+1 CC to M/s.R.VENKATESWARAN, Advocate (SR-8432[I] dated 24/07/2024)

ORDER
IN
CRL MP(MD) No.7336 of 2024
IN
CRL RC(MD)No. 708 of 2024
Date :24/07/2024

PKP/25.07.2024/ 7P/ 5C

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