



CRL.M.P.(MD)No.7740 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.M.P.(MD)No.7740 of 2024

in

CRL.R.C.(MD)No.732 of 2024

M.MOHAMED ISMAIL

...REVISION PETITIONER/ APPELLANT/
ACCUSED

Vs

CHIDAMBARAM

... 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 execution of the sentence of the said conviction dt. 06.04.2023 passed in C.C No. 389/2014 against petitioner by the Honble Judicial Magistrate at Shencottai and confirming the conviction by the appellate court in Crl A No. 56/2023 by the learned Principal District Judge, Tirunelveli, and enlarge petitioner on bail pending disposal of the present Criminal Revision Petition.

Prayer in CRL RC(MD). 732/ 2024 :

To call for the records in Crl A No. 56/2023 before the learned Principal District Judge, Tirunelveli dt. 23.07.2024 confirming the trial court judgment in C.C No. 389/2014 on the file of the learned Judicial Magistrate, Shencottai and to set aside the conviction and sentence by allowing this Criminal Revision Petition.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.R.ANANDHA RAJ, 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 learned Principal District Judge, Tirunelveli in C.A.No.56 of 2023, dated 23.07.2024, in confirming the conviction and sentence imposed by the learned Judicial Magistrate, Shencottai, in C.C.No.389 of 2014, dated 06.04.2023 and release the petitioner on bail pending disposal of the Criminal Revision Petition.

2.The case of the prosecution is that the complainant, his father and his wife are Dentist at Tenkasi. The accused is an advocate at Tenkasi. The accused has been running auction Chit at Tenkasi and the complainant has joined the chit in the year 2011. Since, the accused needs money for running the chit, he approached the complainant for loan and the complainant gave Rs.3,00,000/- on 03.10.2011, Rs.3,50,000/- on 14.12.2011 by pledging the jewels of his wife and his father. Thereafter the accused received a loan for a sum of Rs.3,25,000/- through the self cheque of complainant's father and wife and in such a manner the accused borrowed loan to the tune of Rs.10,00,500/-. During May 2014, there was a dispute arose between the complainant and the accused in respect of re-payment of the matured chit amount for which the complainant has also given a police complaint and during the enquiry the accused paid Rs.2,00,000/- and agreed to pay the remaining amount



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within three months, but he has not paid the amount as agreed by him. At this juncture, the complainant has demanded the accused to repay the amount borrowed by him to the tune of Rs.10,50,000/- from the complainant and his family members for which the accused issued cheque bearing No.001182 for Rs.10,00,000/- drawn on Axis Bank, Ilanji branch in favour of the complainant. After the dispute with regard to the re-payment of Chit amount, the complainant has demanded the accused to repay the cheque amount and the accused instructed the complainant to fill the date in the cheque as 01.07.2014 and to present the same for collection. When the complainant presented the cheque for collection in the HDFC Bank on 05.08.2014, the said cheque was returned on 09.08.2014 as "Payment Stopped by Drawer". The said return of the cheque came into light of the complainant on 12.08.2014 through Debit Advice. Hence, the complainant has issued legal notice to the accused on 01.09.2014 and also sent rejoinder notice on 04.09.2014. Even on receipt of the said notice, the accused neither replied nor paid any amount. Hence, a complaint was lodged before the respondent police and FIR was register under Section 138 of the Negotiable Instrument Act.

3.During trial, the complainant has examined as P.W.1 to P.W.5 and exhibited 35 documents as Ex.P.1 to Ex.P.35. On the side of the accused, witness was examined as D.W.1 and 18 documents were exhibited as Ex.R.1 to Ex.R.18 and no material



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objects were exhibited.

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4.The learned Judicial Magistrate, Shencottai, after full-fledged trial, has passed the judgment in C.C.No.389 of 2014, dated 06.04.2023 and convicted the petitioner/accused for the offence under Section 138 of the Negotiable Instrument Act, and sentenced him to undergo two years Simple Imprisonment and to pay a compensation of Rs.20,00,000/- (Rupees Twenty Lakhs Only), in default to undergo eight months Simple Imprisonment. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the Principal District Judge, Tirunelveli, in Crl.A.No.56 of 2023. However, the same was dismissed on 23.07.2024, 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.

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



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already deposited a sum of Rs.4,00,000/- (Rupees Four Lakhs only) before the Court below. 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 has already deposited a sum of Rs.4,00,000/- (Rupees Four Lakhs only) before the Court below and there was no antecedent against the petitioner and 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) 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, Shencottai;

(ii) The sureties shall affix their photographs and Left Thumb Impression in the



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surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass

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Book to ensure their identity; and

(iii)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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/08/2024

Sub-Assistant Registrar (CS-I/ II / III/ IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE PRINCIPAL DISTRICT JUDGE, TIRUNELVELI

2. THE JUDICIAL MAGISTRATE, SHENCOTTAI;

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.

+1 CC TO MR.R.ANANDHA RAJ, Advocate SR No.9205 dated 01.08.2024

ORDER
IN

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in

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Date :01/08/2024



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RK/GS (07/08/2024) 7P /5C

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