



CRL MP(MD) No.8023 of 2024

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

Friday, the Sixteenth day of August Two Thousand and Twenty Four
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR
CRL MP(MD) No.8023 of 2024
in
CRL RC(MD) No.749 of 2024

BOOPALAN

... PETITIONER/PETITIONER

Vs

PALANIKUMAR

... 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 of imprisonment by the Learned First Additional District and Sessions Judge (PCR), Tiruchirappalli, in Crl.A.No.101 of 2023 dated 02.05.2024 by confirming the order of conviction and sentence in S.T.C.No.160 of 2022 on the file of Learned District Munsif Cum Judicial Magistrate, Thottiyam by judgment dated 04.10.2023 and enlarge the petitioner on bail pending disposal of this Criminal Revision.

Prayer in CRL RC(MD). 749/ 2024 :

To call for the records and set aside the order of conviction and sentence dated 02.05.2024 in C.A.No.101 of 2023 on the file of the Learned First Additional District and Sessions Judge (PCR), Tiruchirappalli, confirmed the order of conviction and Sentence dated 04.10.2023 in S.T.C.No.160 of 2022 on the file of Learned District Munsif Cum Judicial Magistrate, Thottiyam by allowing the above Criminal Revision Petition and acquit the Petitioner from the all charges.

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.I.VELPRADEEP, Advocate for the petitioner, the court made the following order:-



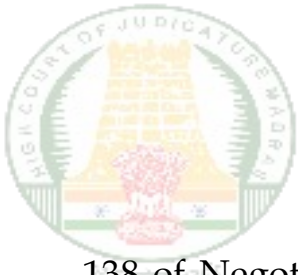
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The above petition has been filed to suspend the sentence imposed on the petitioner by the learned District Munsif cum Judicial Magistrate, Thottiyam, in S.T.C.No.160 of 2022, dated 04.10.2023, which was confirmed by the learned First Additional District and Sessions Judge (PCR), Tiruchirappalli, in Crl.A.No.101 of 2023, dated 02.05.2024.

2.The case of the respondent/complainant is that the on 20.10.2018, the petitioner/accused borrowed a loan of Rs.4,00,000/- from the respondent with interest at 18% per annum and agreed to repay the said amount within three months, that on 22.01.2019, the petitioner gave interest for three months and issued a cheque for Rs.4,00,000/-, that when the respondent has presented the cheque for collection on 22.01.2019, the same was returned with reason "Account Closed" on 24.01.2019, that the respondent has then sent a legal notice dated 19.02.2019 to the petitioner's residential place and business place demanding repayment of the amount covered by the cheque and the same was received by the petitioner on 20.02.2019 and 21.02.2019 respectively and that thereafter the respondent has filed a private complaint for the offences under Sections 138 and 142 of Negotiable Instruments Act and Section 420 IPC.

3.The learned counsel appearing for the petitioner would submit that the petitioner has been convicted by the trial Court for the alleged offence under Section



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138 of Negotiable Instruments Act and sentenced him to undergo two years simple imprisonment and to pay a compensation of Rs.4,00,000/-, in default, to undergo six months simple imprisonment.

4.Challenging the above said conviction and sentence, the petitioner has filed an appeal in CrI.A.No.101 of 2023 on the file of the learned First Additional District and Sessions Judge (PCR), Tiruchirappalli. The learned Sessions Judge confirming the conviction and sentence, dismissed the appeal. Being dissatisfied with the dismissal of the appeal, the petitioner has preferred the present Criminal Revision along with the instant miscellaneous petition seeking suspension of sentence.

5.The learned counsel appearing for the petitioner would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

6.This Court has carefully considered the contentions put forward by the learned counsel appearing for the petitioner and also perused the materials available on record.

7.The learned counsel appearing for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal revision and further the criminal revision is not likely to be taken up for final hearing



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in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

8. Accordingly, the relief of suspension of sentence is granted to the petitioner on the following conditions:-

(i) The petitioner shall deposit a sum of Rs.2,00,000/- (Rupees Two Lakhs only) on or before 17.09.2024 to the credit of S.T.C.No.160 of 2022 on the file of the learned District Munsif cum Judicial Magistrate, Thottiyam, failing which the sentence suspended shall automatically dismissed and the concerned jurisdictional police 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 District Munsif cum Judicial Magistrate, Thottiyam, Tiruchirappalli;

(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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and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

9. Post the matter on 18.09.2024 'for reporting compliance'.

sd/-

16/08/2024

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/08/2024

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

csm

TO

1 THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE (PCR),
TIRUCHIRAPPALLI.

2 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE, THOTTIYAM.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TRICHY DISTRICT.

+1 CC to M/s.I.VELPRADEEP, Advocate (SR-10045[I] dated 19/08/2024)

ORDER

IN

CRL MP(MD) No.8023 of 2024

in

CRL RC(MD) No.749 of 2024

Date :16/08/2024

RS/VR/SAR-(24.08.2024) 5P 5C

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

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