



CRL MP(MD) No.8662 of 2024

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

Tuesday, the Twenty Seventh day of August Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.8662 of 2024

IN

CRL RC(MD) No.802 of 2024

RAM

... PETITIONER/PETITIONER/
APPELLANT/ACCUSED

Vs

NAGARAJAN

... 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 passed on 04.07.2024 in Crl.A.No.74 of 2023 on the file of Additional District and Sessions Judge (FTC), Tenkasi confirming the Judgment 21.04.2023 passed in S.T.C.No.1137 of 2020 on the file of Judicial Magistrate Court, Tenkasi and enlarge the petitioner on bail pending disposal of the above criminal revision.

Prayer in CRL RC(MD). 802/ 2024 :

To call for the records relating to the judgment dated 04.07.2024 made in Crl.A.No.74 of 2023 on the file of Additional District and Sessions Judge (FTC), Tenkasi confirming the judgment dated 21.04.2023 passed in S.T.C.No.1137/2020 on the file of Judicial Magistrate Court, Tenkasi and set aside the same acquit the petitioner.



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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.RAMANUJAM, Advocate for M/S.GANDHI ASSOCIATES, Advocate for the petitioner, the Court made the following order:-

The above petition has been filed to suspend the sentence imposed on the petitioner by the learned Judicial Magistrate, Tenkasi, in S.T.C.No.1137 of 2020, dated 21.04.2023, which was confirmed by the learned Additional District and Sessions Judge (FTC), Tenkasi, in Crl.A.No.74 of 2023, dated 04.07.2024.

2.The case of the respondent/complainant is that the on 10.11.2019, the petitioner/accused borrowed a loan of Rs.3,00,000/- from the respondent 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.3,00,000/-, that when the respondent has presented the cheque for collection on 15.10.2020, the same was dishonoured with an endorsement "Funds Insufficient" on 17.10.2020, that the respondent has then sent a legal notice dated 24.10.2020 to the petitioner demanding repayment of the amount covered by the cheque and the petitioner sent reply notice dated 06.11.2020 and that thereafter the respondent has filed a private complaint for the offences under Sections 138 and 142 of Negotiable Instruments Act.



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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 138 of Negotiable Instruments Act and sentenced him to undergo one year simple imprisonment and to pay a compensation of Rs.3,00,000/-, in default, to undergo three months simple imprisonment.

4.Challenging the above said conviction and sentence, the petitioner has filed an appeal in Crl.A.No.74 of 2023 on the file of the learned Additional District and Sessions Judge (FTC), Tenkasi. 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.



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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 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.1,50,000/- (Rupees One Lakh and Fifty Thousand only)** on or before 25.09.2024 to the credit of S.T.C.No.1137 of 2023 on the file of the learned Judicial Magistrate, Tenkasi, failing which the sentence suspended shall automatically be 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;



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(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 Judicial Magistrate, Tenkasi;

(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 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 26.09.2024 'for reporting compliance'.

sd/-
27/08/2024

/ TRUE COPY /

/09/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

GNS



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TO
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- 1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE(FTC), TENKASI.
- 2 THE JUDICIAL MAGISTRATE
TENKASI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.

+1 CC to M/s.M/S.GANDHI ASSOCIATES, Advocate (SR-10541[I] dated 29/08/2024)

ORDER
IN
CRL MP(MD) No.8662 of 2024
IN
CRL RC(MD) No.802 of 2024
Date :27/08/2024

SS/GS/SAR- /03/09/2024/6P/5C

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