



CRL MP(MD) No.8943 of 2024

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

Friday, the Thirtieth day of August Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.8943 of 2024

in

CRL RC(MD)No.830 of 2024

D.NALLIAH PETER

... PETITIONER/PETITIONER

Vs

K.MUTHAIAH

... 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 passed against the petitioner by the Judgment dated 26/6/2024 passed in CA.No.120/2023 on the file of the III Additional District and Sessions Court, Tirunelveli confirming the Judgment dated 30/6/2023 passed in STC No.675/2020 on the file of the Special Court for Exclusive Trial of NI Act, Tirunelveli and release him on bail till the disposal of the above revision petition.

Prayer in CRL RC(MD). 830/ 2024 :

To set aside the Judgment dated 26/6/2024 passed in CA.No.120/2023 on the file of the 3rd Additional District and Sessions Court, Tirunelveli confirming the Judgment dated 30/6/2023 passed in STC No.675/2020 on the file of the Special Court for Exclusive Trial of NI Act, Tirunelveli, by allowing this revision.

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.T.SELVAN, Advocate for the petitioner, the Court made the following order:-

The above petition has been filed to suspend the sentence imposed on the



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petitioner by the Special Court for Exclusive Trial of NI Act, Tirunelveli, in S.T.C.No.675 of 2020, dated 30.06.2023, which was confirmed by the III Additional District and Sessions Court, Tirunelveli, in C.A.No.120 of 2023, dated 26.06.2024.

2.The case of the respondent/complainant is that the petitioner and the respondent entered into a sale agreement for selling a property, that the respondent paid a sum of Rs.5,00,000/- to the petitioner, however, the sale was not completed and hence, the petitioner issued a cheque dated 25.07.2018 for a sum of Rs.5,00,000/- to the respondent, that when the respondent has presented the cheque for collection on 25.07.2018, the same was dishonoured with an endorsement "Funds Insufficient" on 26.07.2018, that the respondent has then sent a legal notice dated 08.08.2018 to the petitioner demanding repayment of the amount covered by the cheque and the petitioner sent reply notice dated 16.08.2018 and that thereafter the respondent has filed a private complaint for the offences under Section 138 of the Negotiable Instruments Act.

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 six months simple imprisonment and to pay a compensation of Rs.5,00,000/-, in default, to undergo two months simple imprisonment.



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4. Challenging the above said conviction and sentence, the petitioner has filed an appeal in C.A.No.120 of 2023 on the file of the III Additional District and Sessions Court, Tirunelveli. 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 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



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on the following conditions:-

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(i) The petitioner shall deposit 50% of the compensation amount ie., a sum of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only) on or before 30.09.2024 to the credit of S.T.C.No.675 of 2020 on the file of the Special Court for Exclusive Trial of NI Act, Tirunelveli, 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 (*)learned Special Judge, Special Court for Exclusive Trial of NI Act, Tirunelveli;

(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



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appear before the trial Court on any other day in lieu of the date of his absence, as

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directed by the trial Court.

9.Post the matter on 01.10.2024 'for reporting compliance'.

sd/-
30/08/2024

(*)For Corrected as per Order of this Hon'ble
Court dt.01/10/2024 in CrI.MP(MD).
8943/2024 in CrI.RC(MD).830/2024.

For production of sureties, time is extended for
a period of one week from today.
(i.e.,01.10.2024)

/ TRUE COPY /

04/10/2024
Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

GNS
TO

TO BE SUBSTITUTED WITH THE ORDER DT.30.08.2024 IS ALREADY
DESPATCHED

1 THE 3RD ADDITIONAL DISTRICT
AND SESSIONS JUDGE, TIRUNELVELI.

2 THE SPECIAL JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF NI ACT,
TIRUNELVELI.

COPY TO:

1 THE JUDICIAL MAGISTRATE,
TENKASI.



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2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.

ORDER
IN
CRL MP(MD) No.8943 of 2024
in
CRL RC(MD)No.830 of 2024
Date :30/08/2024

SS/JGB/SAR- /10/09/2024/6P/5C
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SA/SAR. /04.10.2024/6P/5C

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