



CRL MP(MD) No.69 of 2024

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

Friday, the Fifth day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.69 of 2024

in

CRL RC(MD)No.10 of 2024

S.SARAVANAKUMAR

... PETITIONER/REVISION PETITIONER

Vs

S.SIVAKUMAR

... 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 the Petitioner imposed in judgment in STC.No.104 of 2019 dt.8.3.2021 on the file of the Learned Judicial Magistrate No.II,Kulithalai,confirmed in judgment dated 7.9.2022 made in Crl.A.No.16 of 2021 on the file of District Judge, Karur, pending disposal of the above criminal revision petition.

Prayer in CRL RC(MD). 10/ 2024 :

To call for the records and set aside the judgment dt.7.9.2022 made in Crl.A.No.16 on the file of District Judge, Karur confirming the judgment in STC.No.104 of 2019 dated 8.3.2021 on the file of the Learned Judicial Magistrate No.II,Kulithalai and allow the Criminal 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 M/S.PRABU M, Advocate for the petitioner and of Mr.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent while admitting the Criminal Revision., the Court made the following order:-



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The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence passed against him by the learned District Judge, Karur, in Crl.A.No.16 of 2021 dated 07.09.2022 and to enlarge him on bail, pending disposal of the Criminal Revision Case.

2. It is submitted by the learned counsel for the petitioner that the respondent has preferred private complaint against the petitioner and a case has been registered against the petitioner and the same was taken on file in S.T.C.No.104 of 2019 before the learned Judicial Magistrate No.II, Kulithalai. The petitioner was convicted and sentenced to undergo one year simple imprisonment and to pay a compensation of Rs.7,00,000/- with three months simple imprisonment in case of default. Challenging the above said conviction and sentence, the petitioner has preferred the Criminal Appeal before the District and Sessions Judge, Karur in Crl.A.No.16 of 2021 and the same was also dismissed on 07.09.2022. Challenging the concurrent findings, the petitioner has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.



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3. The learned counsel for the petitioner would submit that there are several infirmities in the prosecution case and moreover, there are contradictions in material particulars of the evidences of the prosecution witnesses and there is no legally enforceable debt between the complainant and the accused. Further, as per the evidence of P.W.1, he has not produced any evidence and documents before the Courts below to substantiate his claim. Hence, he seeks suspension of sentence.

4. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

5. The petitioner is said to have committed the offence under Section 138 of the Negotiable Instrument Act. It is the specific case of the petitioner that as per the evidence of P.W.1, the complainant has not produced any evidence and documents before the Courts below to prove his case. Further, the learned counsel for the petitioner pointed out certain infirmities and inconsistencies in this case and also certain contradictions in material particulars and also submitted that the petitioner is ready to deposit 50% of the cheque amount. So this Court *prima facie* satisfied that there are arguable points involved in this Criminal Revision Petition 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 inclined to suspend the sentence imposed on the petitioner.



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

(i) The petitioner shall deposit 50% of the cheque amount to the credit of S.T.C.No.104 of 2019, before the learned Judicial Magistrate No.II, Kulithalai, within a period of four weeks from the date of receipt of a copy of this order.

(ii) 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 Principal District Judge, Karur,

(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 learned Principal District Judge, Karur, once in a month i.e., on the first working day of every English calendar month at 10.30 a.m., till the disposal of the Criminal Revision Petition.

v) In case, if the petitioner is unable to appear before the Court concerned on the first working day of a month, he shall appear on the next working day.

vi) The petitioner shall furnish his residential address and mobile number to the Trial Court ie., learned Principal District Judge, Karur.



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allowed.

7. Subject to the above conditions, this Criminal Miscellaneous Petition is

sd/-
05/01/2024

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/01/2024

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

RM

TO

- 1 THE PRINCIPAL DISTRICT JUDGE,
KARUR.
- 2 THE JUDICIAL MAGISTRATE NO.II
KULITHALAI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KARUR DISTRICT.

COPY TO:

THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.(CALL FOR RECORDS)

+1 CC to M/s.M.PRABU, Advocate (SR-242[I] dated 05/01/2024)



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ORDER
IN
CRL MP(MD) No.69 of 2024
in
CRL RC(MD)No.10 of 2024
Date :05/01/2024
(1/2)

SS/DD/SAR- /10/01/2024/6P/6C

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