



CRL.M.P(MD).No.12278 of 2024

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

Monday, the Eighteenth day of November Two Thousand and Twenty Four

PRESENT

The HONOURABLE MR. JUSTICE P. VADAMALAI

CRL.M.P(MD).No.12278 of 2024

in

CRL.R.C(MD).No.1156 of 2024

P.NAGARAJAN

... PETITIONER/PETITIONER/
APPELLANT/ACCUSED

Vs

T.SOMASUNDARAM

... RESPONDENT/RESPONDENT/
RESPONDENT/COMPLAINANT

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 as imposed on me by the Honble Principal and Sessions Judge, Kanyakumari District, Nagercoil dated 18.03.2024 made in C.A.No.41 of 2012 confirming the order of conviction and sentence imposed on him by the Learned Fast Track (Magisterial Level) No.II, Kanyakumari District, Nagercoil made in C.C.No.42 of 2012 dated 08.06.2012, pending disposal of the above Criminal Revision Petition.

Prayer in CRL RC(MD). 1156/ 2024 :

To call for the records and set aside the order of conviction and sentence as confirmed by the Honble Principal and Sessions Judge, Kanyakumari District, Nagercoil dated 18.03.2024 made in C.A.No.41 of 2012 confirming the order of conviction and sentence imposed on him by the learned Fast Track(Magisterial Level), No.II, Kanyakumari District, Nagercoil made in C.C.No.42 of 2012 dated 08.06.2012 forthwith.



CRL.M.P(MD).No.12278 of 2024

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.JEEN JOSEPH.T, Advocate for the petitioner and of MR.K.VAMANAN, advocate for the Respondent, while admitting the Criminal Revision Case, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed by the Fast Track (Magisterial Level) No.II, Kanyakumari District, Nagercoil, in C.C.No.42 of 2012, dated 08.06.2012, which was confirmed in Criminal Appeal No.41 of 2012, dated 18.03.2024, by the learned Principal and Sessions Judge, Kanyakumari District, Nagercoil pending disposal of the Criminal Revision Case in Crl.R.C.(MD)No.1156 of 2024.

2. The learned counsel appearing for the petitioner submitted that the petitioner has been convicted by the trial Court on 08.06.2012 for the offence under Section 138 of Negotiable Instrument Act, and sentenced him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.5,000/- (Rupees Five Thousand only), in default, to undergo simple imprisonment for a period of three months in C.C. No.42 of 2012 on the file of the Fast Track (Magisterial Level) No.II, Kanyakumari District, Nagercoil.

3. The learned Principal and Sessions Judge, Kanyakumari District, Nagercoil



CRL.M.P(MD).No.12278 of 2024

confirmed the conviction and sentence, and dismissed the Criminal Appeal No.41 of 2012, dated 18.03.2024. Challenging the same, the present Criminal Revision case has been filed before this Court along with this Criminal Miscellaneous Petition seeking suspension of sentence.

4. It is submitted by the learned counsel for the petitioner that there are several infirmities in the prosecution case, and also there are contradictions in material particulars between the evidence of the prosecution witnesses. Further, he submitted that the petitioner is ready to deposit 50 % of the cheque amount to show his bonafide.

5. The learned counsel for the respondent has not raised any serious objection to this petition.

6. This Court has carefully considered the submissions of the learned counsel for the petitioner and the learned counsel for the respondent, and has also perused the materials available on record.

7. The learned counsel for the petitioner pointed out that there are certain



CRL.M.P(MD).No.12278 of 2024

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infirmities and inconsistencies in this case, and also there are 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, and also considering the bonafide expressed by the petitioner, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of 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) The petitioner shall deposit 50% of the cheque amount i.e., a sum of Rs.75,000/- (Rupees Seventy Five Thousand only) to the credit of C.C. No.42 of 2012 on the file of the Fast Track (Magisterial Level) No.II, Kanyakumari District, Nagercoil on or before 16.12.2024, failing which, the sentence suspended shall automatically dismissed, and the respondent 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 Fast Track (Magisterial Level) No.II, Kanyakumari District,



CRL.M.P(MD).No.12278 of 2024

Nagercoil.

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(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.

9. List the matter on 17.12.2024 under the caption “for reporting compliance”.

sd/-
18/11/2024

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/11/2024

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

mkn

TO

1. THE JUDGE, FAST TRACK (MAGISTERIAL LEVEL) NO.II,
KANYAKUMARI DISTRICT, NAGERCOIL

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI @ NAGERCOIL.

3. THE PRINCIPAL AND SESSIONS JUDGE,
KANYAKUMARI DISTRICT, NAGERCOIL

+1 CC to M/s.J.JEEVIN, Advocate (SR-14237[I] dated 19/11/2024)



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CRL.M.P(MD).No.12278 of 2024

ORDER
IN
CRL.M.P(MD).No.12278 of 2024
in
CRL.R.C(MD).No.1156 of 2024
Date :18/11/2024

RK/GSV (25/11/2024) 6P / 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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