



CRL MP(MD) No.10188 of 2024

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

Thursday, the Twenty Sixth day of September Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.10188 of 2024

in

CRL RC(MD) No.923 of 2024

K.MURUGAN

... Petitioner / Petitioner

Vs

M.SENTHIL KUMAR

... 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 imposed by the court of the Principal District and Sessions Judge, Virudhunagar District at Srivilliputhr in Crl.A.No. 02/2020 on 08.08.2024 in confirming the conviction and sentence imposed by the Judicial Magistrate Court No.1 Sivakasi, Virudhunagar District in S.T.C.No.768 of 2016 on 19.11.2019 and enlarge the petitioner on bail pending disposal of the criminal revision petition.

Prayer in CRL RC(MD). 923/ 2024 :

To call for the records and set aside the conviction and sentence imposed by the court of the Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur in Crl.A.02/2020 on 08.08.2024 in confirming the conviction and sentence imposed by the Judicial Magistrate Court No.1 Sivakasi, Virudhunagar District in S.T.C.No.768 of 2016 on 19.11.2019 and allow this criminal revision petition.

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



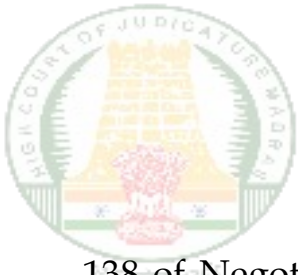
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of M/s.M.JOTHI BASU, Advocate for the petitioner, the Court made the following order:-

The above petition has been filed to suspend the sentence imposed on the petitioner by the learned Judicial Magistrate No.I, Sivakasi, Virudhunagar District, in S.T.C.No.768 of 2016, dated 19.11.2019, which was confirmed by the learned Principal District and Sessions Judge, Virudhunagar, in Crl.A.No.02 of 2020, dated 08.08.2024.

2. The case of the respondent/complainant is that the petitioner's wife entered into a sale agreement with the respondent, for which, the respondent had paid an advance amount of Rs.2 lakhs to them but the sale has not been completed and for to repay the advance amount, the petitioner issued several cheques to the respondent on various times but whenever the respondent presented the cheques for collection, the same were dishonored with reason "Funds Insufficient", that the respondent has then sent a legal notice dated 04.02.2015 to the petitioner demanding repayment of the amount covered by the cheque, that the petitioner returned the same as not claimed and that therefore the respondent has filed a private complaint for the offence under Section 138 of 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



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138 of Negotiable Instruments Act and sentenced him to undergo one year simple imprisonment and to pay a compensation of Rs.2,00,000/-, 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.2 of 2020 on the file of the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputtur. The learned Sessions Judge by confirming the conviction and sentence, dismissed the appeal. Being dissatisfied with the said conviction and sentence, 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. He would further submit that the petitioner has already deposited Rs.50,000/-.

6. This Court has carefully considered the contention made 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



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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 50% of the remaining compensation amount i.e., Rs.75,000/- (Rupees Seventy Five Thousand only) on or before 24.10.2024 to the credit of S.T.C.No.768 of 2016 on the file of the learned Judicial Magistrate No.I, Sivakasi, Virudhunagar District, failing which the sentence suspended shall automatically dismissed and the 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 Judicial Magistrate No.I, Sivakasi, Virudhunagar District;

(iii) The sureties shall affix their photographs and Left Thumb



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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 25.10.2024 ' for reporting compliance'.

sd/-
26/09/2024

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/10/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CSM

To

1.The Principal District and Sessions Judge,
Virudhunagar District at Srivilliputtur.



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2.The Judicial Magistrate No.I,
Sivakasi, Virudhunagar District.

3.Do through the Chief Judicial Magistrate,
Virudhunagar District at Srivilliputhur.

+1 CC to M/s.G.M.LAW OFFICE, Advocate (SR-11848[I] dated 27/09/2024)

ORDER
IN
CRL MP(MD) No.10188 of 2024
in
CRL RC(MD) No.923 of 2024
Date :26/09/2024

ED/ VR /SAR- (01/10/2024) 6P / 5C

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