



CRL.M.P.(MD)No.10867 of 2024

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

Wednesday, the Sixteenth day of October Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL.M.P.(MD)No.10867 of 2024

in

CRL.R.C.(MD)No.983 of 2024

M.N.MAILERI

... PETITIONER/PETITIONER

Vs

JEYARAMSUNDAR

... 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 imprisonment imposed by the learned III Additional District and Sessions Judge, Thanjavur at Pattukottai in Crl.A.No.34/2023 by judgment dt.06.09.2024, by confirming the conviction and sentence of imprisonment imposed by the Fast Track Court (Magisterial Level) Pattukkottai, Thanjavur District in STC.No.54 of 2022 by the judgment dated 06.01.2023, and enlarged the petitioner on bail pending disposal of this Criminal Revision.

Prayer in CRL RC(MD). 983/ 2024 :

To set aside the conviction imposed by the III Additional District and Sessions Judge, Thanjavur at Pattukottai in Crl.A.No.34/2023 dt.06.09.2024 by confirming the conviction and sentence imposed by the Fast Track Court (Magisterial Level), Pattukottai, Thanjavur District in STC.No.54 of 2022 dated 06.01.2023.



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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.M.MAHARAJA, Advocate for the petitioner, While admitting the Criminal Revision Case, the court made the following order:-

The above petition has been filed to suspend the sentence imposed on the petitioner by the learned Fast Track Court (Magisterial Level), Pattukottai, Thanjavur District, in S.T.C.No.54 of 2022, dated 06.01.2023, which was confirmed by the learned III Additional District and Sessions Judge, Thanjavur at Pattukottai, in Crl.A.No.34 of 2023, dated 06.09.2024.

2. The case of the respondent/complainant is that the petitioner/ accused has received Rs.3,40,000/- from the respondent as advance for selling two plots to the respondent and since the petitioner could not get the plan approval for long time, the respondent insisted him to return the amount, for which, the petitioner has issued three cheques for Rs.3,40,000/-, that when the respondent has presented the cheque for collection on 14.02.2022, the same was dishonored with reason "Funds Insufficient", that the respondent has then sent a legal notice dated 02.03.2022 to the petitioner demanding repayment of the amount covered by the cheque, that the petitioner, after receiving the notice on 05.03.2022, has sent a reply on 01.04.2022 raising false and untenable allegations against the complainant and that thereafter the respondent has filed a private complaint for the offence under Section 138 of



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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 six months simple imprisonment and to pay a compensation of Rs.3,60,000/-, in default, to undergo one month simple imprisonment.

4. Challenging the above said conviction and sentence, the petitioner has filed an appeal in CrI.A.No.34 of 2023 on the file of the learned III Additional District and Sessions Judge, Thanjavur @ Pattukkottai. The learned Sessions Judge dismissed the appeal for non-prosecution. 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.72,000/-.

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.



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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 the 50% of the remaining compensation amount on or before 15.11.2024 to the credit of S.T.C.No.54 of 2022 on the file of the learned Judicial Magistrate, Fast Track Court, Pattukottai, 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 Fast Track Court (Magisterial Level), Pattukottai, Thanjavur District;



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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 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 18.11.2024 ' for reporting compliance'.

sd/-
16/10/2024

/ TRUE COPY /

30/10/2024
Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

CSM
TO

1 THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE,
THANJAVUR AT PATTUKOTTAI.

2 THE FAST TRACK JUDGE (MAGISTERIAL LEVEL),
PATTUKOTTAI, THANJAVUR DISTRICT.



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3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.

+1 CC to M/s.M.MAHARAJA, Advocate (SR-12583[I] dated 17/10/2024)

ORDER
IN
CRL.M.P.(MD)No.10867 of 2024
in
CRL.R.C.(MD)No.983 of 2024
Date :16/10/2024

SA/SAR. /30.10.2024/6P/5C

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