



CRL.M.P.(MD)No.11628 of 2024

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

Tuesday, the Twenty Ninth day of October Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL.M.P.(MD)No.11628 of 2024

in

CRL.R.C.(MD)No.1059 of 2024

SURESH

... PETITIONER/PETITIONER/ APPELLANT/
ACCUSED

Vs

BOOPATHY

... RESPONDENT/RESPONDENT/RESPONDENT/
COMPLAINANT

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 in C.C No. 657 of 2007 dt. 11.11.2011 by the learned Judicial Magistrate No.1, Karur and modified by the learned Principal Sessions Judge, Karur in Criminal appeal no. 74/2011 dt. 05.11.2014 and enlarge petitioner on bail pending disposal of main Criminal Revision.

Prayer in CRL RC(MD). 1059/ 2024 :

To call for the records and set aside the conviction and sentence passed in C. C No. 657 of 2007 dt. 11.11.2011 by the learned Judicial Magistrate no.I, Karur and modified by the learned Principal Sessions Judge, Karur in Criminal appeal no. 74/11 dated 05.11.2014.

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

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M/S.BALAKRISHNAN.T, Advocate for the petitioner and of Mr.S.MUTHUKUMAR, Advocate on behalf of the Respondent, 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/sole accused by the learned Judicial Magistrate No.I, Karur, in C.C.No.657 of 2007, dated 11.11.2011, which was modified by the learned Principal Sessions Judge, Karur, in Crl.A.No.74 of 2011, dated 05.11.2014.

2. The case of the respondent/complainant is that on 15.02.2007, the petitioner/accused has borrowed a loan of Rs.2,10,000/- from the respondent to meet his urgent expenses and on that day itself, the petitioner has issued a post dated cheque dated 15.03.2007 for Rs.2,10,000/-, that when the respondent has presented the cheque for collection on 08.05.2007, the same was dishonored with reason "Funds Insufficient", that the respondent has then sent a legal notice dated 18.05.2007 to the petitioner demanding repayment of the amount covered by the cheque, that the petitioner, after receiving the notice, neither paid the cheque amount nor replied to the legal notice and that thereafter the respondent has filed a private complaint for the offence under Section 138 r/w 142 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 138 of Negotiable Instruments Act and sentenced him to undergo one year simple



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imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo three months simple imprisonment.

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4. Challenging the above said conviction and sentence, the petitioner has filed an appeal in Crl.A.No.74 of 2011 on the file of the learned Principal Sessions Judge, Karur. The learned Sessions Judge, while dismissing the appeal, has modified the fine amount and directed the petitioner to pay fine of Rs.2,12,000/- and in default, to undergo six months simple imprisonment. 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 the petitioner is in prison from 27.08.2024. He would further 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. When the matter is taken up for hearing today, the learned counsel appearing for the respondent would submit that they are not having any objection to allow this petition since the petitioners's wife has paid Rs.2,10,000/- by way of Demand Draft to the respondent on 25.10.2024 and the learned counsel for the respondent and the respondent have also made an endorsement to that effect.

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



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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 taking note of the endorsement made by the learned counsel appearing for the respondent, 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 and bail is granted to the petitioner on the following conditions:-

(i) 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, 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 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



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any other day in lieu of the date of his absence, as directed by the trial Court.

sd/-
29/10/2024

/ TRUE COPY /

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

CSM
TO
1 THE PRINCIPAL SESSIONS JUDGE
KARUR.

2 THE JUDICIAL MAGISTRATE NO.I,
KARUR.

3 DO THROUGH THE CHIEF JUDICIAL
MAGISTRATE, KARUR DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

+1 CC to M/s.T.BALAKRISHNAN, Advocate (SR-13382[I] dated 29/10/2024)

ORDER
IN
CRL.M.P.(MD)No.11628 of 2024
in
CRL.R.C.(MD)No.1059 of 2024
Date :29/10/2024

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

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