



CRL MP(MD) No.4304 of 2024

WEB COPY

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

Tuesday, the Sixteenth day of April Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

CRL MP(MD) No.4304 of 2024
in
CRL RC(MD)No.392 of 2024

1 M/S. ASIA YARN TRADER
REP BY ITS PARTNER,
T.N.MANI, S/O.NALLAMUTHU,
NO.27, BHARATHI NAGAR,
SENGUNTHAPURAM POST,
KARUR - 639002,
KARUR DISTRICT.

2 T.N MANI

... PETITIONERS/PETITIONERS

Vs

M/S VAISHNAVI YARN STORES
REP BY ITS PARTNER,
K.ARUMUGAM,

... 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 enlarge bail on the petitioner from undergoing the sentence imposed in C.A.No.42 of 2020 on the file of Learned Principal District and Sessions Judge, Karur dt.30.01.2023 confirming the judgment of conviction and sentence made in C.C.No.613 on the file of Learned Judicial Magistrate, Fast Track Court @ Magisterial Level, Karur dated 01.12.2020.



CRL MP(MD) No.4304 of 2024

Prayer in CRL RC(MD). 392/ 2024 :

To call for the records and set aside the Judgment made in C.A.No.42 of 2020 by the file Learned District Judge, Karur dt.30.01.2023 confirming the judgment of conviction and sentence made in C.C.No.613 of 2014 by the file of Learned Judicial Magistrate, Fast Track Court @ Magisterial Level, Karur dated 01.12.2020.

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.SENTHIL M.P., Advocate for the petitioner and of Mr.K.PRABHAKAR, Advocate on behalf of the Respondent while admitting the Criminal Revision Petition., the Court made the following order:-

This petition is filed to suspend the sentence imposed on the petitioners by the learned Principal District and Sessions Judge, Karur, in C.A.No.42 of 2020 dated 30.01.2023 in confirming the judgment of conviction and sentence made in C.C.No.613 of 2014 on the file of the learned Judicial Magistrate, Fast Track Court @ Magisterial Level, Karur, dated 01.12.2020 and enlarge the petitioner on bail pending disposal of the main Criminal Revision.

2.The case of the respondent is that the respondent/complainant is a registered partnership firm. The first petitioner is a partnership firm and the second petitioner is a active partner of the first accused firm. The first petitioner/accused purchased yarn from the respondent and he is liable to pay the balance amount of Rs.5,78,400/- to the respondent. Towards repayment of such due, the petitioner had



CRL MP(MD) No.4304 of 2024

WEB COPY

issued three post dated cheques bearing Nos.0000376, 000378, 000375 dated 03.11.2014 (total value of the said cheques is Rs.5,78,400/-) drawn on Bank of Baroda, Karur Branch in favour of the respondent. While, the respondent presented the said three cheques for payment on 06.11.2014, the same was returned with an endorsement as “insufficient funds” in the account of the petitioner, for which, the complainant had also issued statutory notice. The notice was duly served on the petitioner on 13.11.2014 and further the petitioner neither paid any amount nor sent any reply. Hence, the respondent filed a complaint under Section 138 of Negotiable Instruments Act, and the same was taken on file in C.C.No.613 of 2014 before the learned Judicial Magistrate, Fast Track Court @ Magisterial Level, Karur.

3.During trial, the complainant has been examined as P.W.1 and exhibited 19 documents as Ex.P.1 to Ex.P.19 and no material objects were marked. On the side of the accused, neither a document was produced nor a witness was examined.

4.The learned Judicial Magistrate, Fast Track Court, at Magisterial Level, Pattukkottai, after full-fledged trial, has passed the judgment in C.C.No.613 of 2014, dated 01.12.2020, and convicted the petitioner for the offence under Section 138 of the Negotiable Instrument Act, and sentenced him to undergo one year Rigorous



CRL MP(MD) No.4304 of 2024

WEB COPY

Imprisonment and to pay compensation of Rs.5,78,000/- (Rupees Five Lakh and Seventy Eight Thousand Only) to the complainant within a period of three months from the date of the judgment in default to undergo three months of Simple Imprisonment. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the learned Principal District and Sessions Judge, Karur, in C.A.No.42 of 2020. However, the same was dismissed on 30.01.2023, thereby confirming the conviction and sentence imposed on the petitioner. Aggrieved over the above said conviction and sentence imposed by the Courts below, the petitioner preferred the present Criminal Revision Case along with the present Miscellaneous Petition seeking for suspension of sentence.

5.The learned counsel for the petitioner submitted that there are some arguable points involved in the criminal revision and the learned trial Judge as well as the Appellate Judge has not considered the evidence in proper prospective and hence, the judgments are suffered from perversity. He further submitted that the petitioner has also undertakes to deposit a sum of Rs.1,50,000/-(Rupees One Lakh and Fifty Thousand only) of the compensation amount to the respondent. Hence, he seeks for the suspension of sentence.



CRL MP(MD) No.4304 of 2024

WEB COPY

6. This Court has carefully considered the submission made by the counsel for the petitioner and also perused the materials available on record.

7. Considering the fact that the petitioner undertakes to deposit a sum of Rs.1,50,000/-(Rupees One Lakh and Fifty Thousand only) of the compensation amount and there was no antecedent against the petitioner and there are some arguable points involved in the criminal revision, this Court is inclined to grant 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 petitioners shall deposit a sum of **Rs.1,50,000/-(Rupees One Lakh and Fifty Thousand only)** of the compensation amount to the credit of C.C.No.613 of 2014 on the file of the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Karur, **on or before 03.06.2024**, 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 petitioners in the manner known to law;



CRL MP(MD) No.4304 of 2024

WEB COPY

(ii) On such deposit, the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Fast Track Court at Magisterial Level, 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 petitioners 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.

8.1. On such deposit being made, the learned trial judge, is hereby directed to re-deposit the said amount of Rs.1,50,000/- in any one of the Nationalized Bank in interest bearing account.

9. Post the matter on **04.06.2024**, for reporting compliance.

sd/-
16/04/2024

/ TRUE COPY /

/04/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

VSG



CRL MP(MD) No.4304 of 2024

TO
WEB COPY

- 1 THE DISTRICT JUDGE,
KARUR.
- 2 THE JUDICIAL MAGISTRATE,
FAST TRACK COURT AT MAGISTERIAL LEVEL, KARUR.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KARUR DISTRICT.

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-4511[I] dated 17/04/2024)
+1 CC to Mr.K.PRABHAKAR, Advocate (SR-4486[I] dated 16/04/2024)

ORDER
IN

CRL MP(MD) No.4304 of 2024
in
CRL RC(MD)No.392 of 2024
Date :16/04/2024

SS/GS/SAR- /25/04/2024/7P/6C

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