



CRL MP(MD) No.4288 of 2024

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

Friday, the Twelfth day of April Two Thousand and Twenty Four
PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN
CRL MP(MD) No.4288 of 2024
in
CRL RC(MD) No.379 of 2024

GOPALRAJ

... PETITIONER/PETITIONER

Vs

SURESH

... 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 execution of sentence in Criminal Appeal No.44/2022 on the file of the Learned III Additional District and Sessions Court, Trichirappalli dated 08/06/2023 confirming the Judgment in S.T.C.No.454/2019 on the file of the Learned Judicial Magistrate, Manapparai dated 30.04.2022 enlarge the Petitioner on bail, pending disposal of the Criminal Revision Petition.

Prayer in CRL RC(MD). 379/ 2024 :

To call for the records from the lower courts and set aside the Judgment of the Appellate Court passed in Criminal Appeal No.44/2022 on the file of the Learned III Additional District and Sessions Court, Trichirappalli dated 08/06/2023 confirming the Judgment in S.T.C.No.454 of 2019 on the file of the Learned Judicial Magistrate, Manapparai dated 30.04.2022, by allowing this Revision.

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.G.KANDHAVADIVELAN, Advocate for the petitioner and of MR.R.ILAYARAJA, Advocate on behalf of the Respondent, while admitting the Criminal Revision Case, the court made the following order:-

This petition is filed to suspend the sentence imposed on the petitioner by the

III Additional District and Sessions Court, Trichirappalli, in C.A.No.44 of 2022, dated



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08.06.2023, in confirming the conviction and sentence imposed by the learned Judicial Magistrate, Manapparai, in S.T.C.No.454 of 2019, dated 30.04.2022 and enlarge the petitioner on bail pending disposal of the main Criminal Revision.

2. The case of the respondent is that the petitioner/accused and the defacto complainant are friends. On 11.02.2019, the petitioner/accused borrowed a sum of Rs.5,00,000/- from the complainant and assured to repay the same within five months with interest of 1% per month. When the complainant demanded the said amount, the accused issued a cheque drawn on Karur Vysya Bank for Rs.5,00,000/- on 30.07.2019. While the complainant presented the said cheque for payment on 02.08.2019 for encashment, the same was returned as "refer to drawer". Therefore, the complainant issued a notice to the petitioner on 26.08.2019 and the petitioner has sent the reply notice dated 03.09.2019. Even after that, the accused has not come forward to repay the cheque amount. Thereafter, the complainant lodged the complaint against the petitioner under Section 138 of the Negotiable Instruments Act, 1988, and the same was taken on file in S.T.C.No.454 of 2019 before the learned Judicial Magistrate, Manapparai.

3. During trial, the complainant has examined as P.W.1 and exhibited 6 documents as Ex.P.1 to Ex.P.6 and no material objects were marked. On the side of the accused, five documents were exhibited as Ex.D1 to Ex.D5 and no witness was



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examined.

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4. The learned Judicial Magistrate, Manapparai, after full-fledged trial, has passed the judgment in S.T.C.No.454 of 2019, dated 30.04.2022 and convicted the petitioner/accused for the offence under Section 138 of the Negotiable Instrument Act, and sentenced him to undergo six months Simple Imprisonment and to pay a compensation of Rs.5,00,000/- (Rupees Five Lakhs Only) to the complainant in default to undergo one month Simple Imprisonment. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the III Additional District and Sessions Court, Trichirappalli, in C.A.No.44 of 2022. However, the same was dismissed on 08.06.2023, 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 further sum of Rs.1,50,000/-(Rupees One Lakh and Fifty



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Thousand only) of the compensation amount to the respondent in addition to the amount already deposited during the course of hearing of appeal. Hence, he seeks for the suspension of sentence.

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 further 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 petitioner shall deposit a sum of Rs.1,50,000/- (Rupees One Lakh and Fifty Thousand only) of the compensation amount to the credit of S.T.C.No.454 of 2019 on the file of the learned Judicial Magistrate, Manapparai, on or before 29.04.2024, failing which the sentence suspended shall automatically be 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;



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(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 Judicial Magistrate, Manapparai;

(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.

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

9. Post the matter on 30.04.2024, for reporting compliance.

sd/-
12/04/2024

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

vsg

TO

1 THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE, TRICHY.

2 THE JUDICIAL MAGISTRATE, MANAPPARAI.



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3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TRICHY DISTRICT.

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+1 CC to M/s.R.ILAYARANA, Advocate (SR-4368[I] dated 12/04/2024)

ORDER

IN

CRL MP(MD) No.4288 of 2024

in

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Date :12/04/2024

RS/JGB/SAR-(18.04.2024) 6P 5C

Madurai Bench of Madras High Court is issuing
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