



CRL.M.P.(MD) No.5535 of 2024

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

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

PRESENT

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

CRL.M.P.(MD) No.5535 of 2024
in
CRL.R.C.(MD) No.531 of 2024

RAJKUMAR

... PETITIONER/ APPELLANT/ ACCUSED

Vs

MARIAPPAN

... 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 conviction and sentence imposed in CA.No.29/2017 on the file of the Principal District and Sessions Court, Virudhunagar District at Srivilliputhur dated 27/3/2023 in confirming the Judgment made in CC No.28/2015 on the file of the learned Judicial Magistrate(Fast Track Court), Srivilliputhur dated 06.03.2017 pending disposal of the Criminal Revision.

Prayer in CRL RC(MD). 531/ 2024 :

To call for the records pertaining to the case in CA.No.29/2017 on the file of the Principal District and Sessions Court, Virudhunagar District at Srivilliputhur and CC No.28/2015 on the file of the learned Judicial Magistrate (FTC), Srivilliputhur and set aside the conviction and sentence passed in C.A.No.29 of 2017 on the file of the Principal District and Sessions Court, Virudhunagar District at Srivilliputhur dated 27.03.2023 in confirming the judgment made in C.C.No.28 of 2015 on the file of the learned Judicial Magistrate(Fast Track Court), Srivilliputhur dated 06.03.2017 and to allow this Criminal Revision.



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

This petition has been filed seeking suspension of sentence imposed on the petitioner by the Principal District and Sessions Court, Virudhunagar at Srivilliputhur, in C.A.No.29 of 2017, dated 27.03.2023, in confirming the conviction and sentence imposed by the learned Judicial Magistrate, Fast Track Court, Srivilliputhur, in C.C.No.28 of 2015, dated 06.03.2017 pending disposal of the main Criminal Revision.

2.The case of the respondent is that the petitioner has borrowed a sum of Rs.2,00,000/- for 1% of interest from the respondent and promised to repay the same within three months, for which, he has given a promissory note in favour of the respondent. After completion of three months, the respondent asked the petitioner for repayment several times. At that time, the petitioner has issued a cheque. When the respondent presented the said cheque before the concerned Bank, it was returned



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as insufficient fund on 21.05.2015. Thereafter, the respondent has issued a legal notice to the petitioner demanding the loan amount on 03.06.2015. The petitioner/accused has received the notice and sent a reply notice on 08.06.2015. Hence, the respondent filed a complaint under Sections 138 and 142 of Negotiable Instruments Act and the same was taken on file in C.C.No.28 of 2015 before the learned Judicial Magistrate, Fast Track Court, Srivilliputhur.

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

4. The learned Judicial Magistrate, Fast Track Court, Srivilliputhur, after full-fledged trial, has passed the judgment in C.C.No.28 of 2015, dated 06.03.2017, and convicted the petitioner/accused for the offence under Section 138 of the Negotiable Instrument Act and sentenced him to undergo 6 months Simple Imprisonment and to pay fine of Rs.1,000/- (Rupees One Thousand Only), in default to undergo two months Simple Imprisonment. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the Principal District and Sessions Court, Virudhunagar at Srivilliputhur, in C.A.No.29 of 2017. However, the



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same was dismissed on 27.03.2023, 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 have not considered the evidence in proper prospective and hence, the judgments are suffered from perversity. 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 75% of the cheque amount (i.e) Rs.1,50,000/- and there are some arguable points involved in the criminal revision, this Court is inclined to grant suspension of sentence.



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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) to the credit of C.C.No.28 of 2015 on the file of the learned Judicial Magistrate, Fast Track Court, Srivilliputhur, on or before 28.06.2024, 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 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 learned Judicial Magistrate, Fast Track Court, Srivilliputhur;

(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



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(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. On such deposit being made by the petitioner, the learned Judicial Magistrate, Fast Track Court, Srivilliputhur, is hereby directed to re-deposit the said amount in any one of the Nationalized Bank in interest bearing account.

9. Post the matter on 01.07.2024, for reporting compliance.

sd/-
06/06/2024

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/06/2024
Sub-Assistant Registrar (CS -I/ II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

1. THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR

2.THE JUDICIAL MAGISTRATE,
FAST TRACK COURT,
SRIVILLIPUTHUR.



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3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT @ SRIVILLIPUTHUR.

ORDER
IN
CRL.M.P.(MD) No.5535 of 2024
in
CRL.R.C.(MD) No.531 of 2024
Date :06/06/2024

RK/JGB (11/06/2024) 7P / 4C

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