



CRL MP(MD) No.4350 of 2024

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

Monday, the Fifteenth day of April Two Thousand and Twenty Four

PRESENT

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

CRL MP(MD) No.4350 of 2024

in

CRL RC(MD)No. 396 of 2024

S.BASKAR RAJ

... PETITIONER/APPELLANT/ ACCUSED

Vs

R.RAJENDRAN

... 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 upon the petitioner in CA No.13/2022 dated 11/4/2023 on the file of the learned Additional District and Sessions Court, Nagercoil which is confirmed Judgment passed in STC No.230/2018 dated 29/10/2018 on the file of the learned Fast Tract court (Magistrate Level) Nagercoil and enlarge to petitioner on bail pending disposal of above Criminal Revision.

Prayer in CRL RC(MD). 396/ 2024 :

To call for the records relating to the order passed by the Learned Additional District and Sessions Court, Nagercoil in CA.No.13/2019 dated 11/4/2023 confirmed

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the Judgment in STC No.230/2018 learned Fast Track Court, Magisterial Level, Nagercoil and set aside the same and allow this Revision Petition.

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.P.PRAVEENKUMAR, Advocate for the petitioner, 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 learned Additional District and Sessions Judge, Nagercoil, in C.A.No.13 of 2019, dated 11.04.2023, in confirming the conviction and sentence imposed by the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Nagercoil District, in S.T.C.No.230 of 2018, dated 29.10.2018 pending disposal of the main Criminal Revision.

2.The case of the respondent is that the respondent and the petitioner are friends and thereby, they known to each other. On 04.02.2013, the petitioner borrowed a sum of Rs.2,00,000/- from the respondent and promised to repay the same within a month, for which, he had given a cheque for a sum of Rs.2,00,000/-, dated 30.03.2013 in favour of the respondent. When the respondent presented the said cheque on that date, it was returned as insufficient fund. Thereafter, on 18.07.2013, the respondent issued a legal notice to the petitioner demanding the loan



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amount. The petitioner/accused did not receive the notice 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 S.T.C.No.230 of 2018 before the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Nagercoil.

3. During trial, the complainant has examined as P.W.1 and marked 5 documents as Ex.P.1 to Ex.P.5 and no material objects were marked. On the side of the accused, the accused was examined as D.W.1 and no document was produced nor a witness was examined.

4. The learned Judicial Magistrate, Fast Track Court at Magisterial Level, Nagercoil, after full-fledged trial, has passed the judgment in S.T.C.No.230 of 2018, dated 29.10.2018, 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 compensation of Rs.2,00,000/- (Rupees Two Lakhs Only) to the complainant within a period of two months from the date of the judgment in default to undergo one month of Simple Imprisonment. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the learned Additional District and Sessions Judge, Nagercoil, in C.A.No.13 of 2019.

However, the same was dismissed on 11.04.2023, thereby confirming the conviction

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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. 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 sum of Rs.75,000/- (Rupees Seventy Five Thousand only) out of the compensation amount awarded by the Courts below 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:-

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(i) The petitioner shall deposit a sum of Rs.75,000/- (Rupees Seventy Five Thousand only) to the credit of S.T.C.No.230 of 2018 on the file of the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Nagercoil, 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;

(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 at Magisterial Level, Nagercoil;

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

account.

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

sd/-
15/04/2024

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

INDU
TO

- 1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, NAGERCOIL.
- 2 THE JUDICIAL MAGISTRATE, FAST TRACK COURT, NAGERCOIL.
- 3 DO THROUGH: THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT @ NAGERCOIL.

COPY TO
THE SECTION OFFICER, CRIMINAL RECORDS,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.4350 of 2024
in
CRL RC(MD) No. 396 of 2024
Date :15/04/2024

PKP/JGB/SAR /25.04.2024/ 6P/ 5C
Madurai Bench of Madras High Court is issuing certified
copies in this format from 17/07/2023