



CRL MP(MD) No.17506 of 2023

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

Tuesday, the Thirtieth day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.17506 of 2023

IN

CRL RC(MD) No.1315 of 2023

M.MARIMURUGAN

... PETITIONER/REVISION PETITIONER

Vs

PUNITHAVATHI

... 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 Sentence and grant bail to the Petitioner/ Revision Petitioner/ Appellant/ Accused against the concurrent Judgement in CA.No.74 of 2022 on the file of the learned Principal Sessions Judge, Thanjavur dt.22.6.2023 and STC.No.209 of 2018 on the file of the learned Judicial Magistrate, Thiruvaiyaru dated 03.09.2022 till the disposal of the main Criminal Revision Case.

Prayer in CRL RC(MD). 1315/ 2023 :

To call for the records of the Judgment 22.06.2023 in Crl.A.74/2022 on the file of the Learned Principal Sessions Judge, Thanjavur Confirming the judgment in STC No.209/2018 passed by the learned Judicial Magistrate, Thiruvaiyaru dt 03.09.2022 and set aside the same.

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 SEENI SYED AMMA, Advocate for M/s.LAJAPATHI ROY AND ASSOCIATES,

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for the petitioner and of Mr.R.SAKTHIVEL, Advocate on behalf of the Respondent, the court made the following order:-

This petition has been filed to suspend the sentence imposed on the petitioner by the learned Judicial Magistrate, Thiruvaiyaru in S.T.C.No.209 of 2018 dated 03.09.2022, which was confirmed by the learned Principal Sessions Judge, Thanjavur, in C.A.No.74 of 2022, dated 22.06.2023.

2. The case of the respondent is that the petitioner/accused who was working as a Bank Manager approached the husband of the respondent herein one Gowthaman, who also worked for the petitioner as a personal driver, for a loan of Rs.5,00,000/- and received the amount on 15.08.2017 and for proper repayment of the said amount, the accused had executed a demand promissory note in favour of the respondent thereby to repay the said sum along with accrued interest at 18% per annum. Thereafter, when the respondent demanded to repay the principal amount along with accrued interest, the petitioner/accused has issued a cheque bearing No.888784 dated 22.02.2018 drawn on Punjab National Bank, Tirunelveli Town Branch towards the part payment of the amount payable by him. While, the complainant presented the said cheque for payment on 22.02.2018, the same was returned with an endorsement as "insufficient funds" in the account of the petitioner/accused, for which, the complainant had also issued statutory notice. The



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petitioner/accused did not receive the notice and further, he neither paid any amount nor sent any reply. Hence, the respondent filed a complaint under Sections 138 and 142 of Negotiable Instruments Act and the same was taken on file in S.T.C.No.209 of 2018 before the Judicial Magistrate Court, Thiruvaiyaru.

3. The learned Judicial Magistrate, Thiruvaiyaru, after full-fledged trial, has passed the judgment in S.T.C.No.209 of 2018, dated 03.09.2022 and convicted the petitioner/accused for the offence under Section 138 of the Negotiable Instrument Act and Section 255(2) of Cr.P.C. and sentenced him to undergo one year Simple Imprisonment and to pay the cheque amount of Rs.5,00,000/- (Rupees Five Lakhs Only) as compensation under Section 357(3) of Cr.P.C. to the complainant, 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 Sessions Judge, Thanjavur in C.A.No.74 of 2022. However, the same was dismissed on 22.06.2023, 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.

4. The learned counsel for the petitioner would submit that the respondent has



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not produced any evidence and documents before the Courts below to prove his case to substantiate her financial capacity to lend Rs.5 lakhs to the petitioner. He would further submit that the petitioner, as per the order of the Appellate Court, has deposited 20% of the cheque value i.e., Rs.1,00,000/- before the trial Court on 18.10.2022. Hence, he seeks suspension of sentence.

5. This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on record.

6. The petitioner is said to have committed the offence under Section 138 of the Negotiable Instrument Act as well as Section 255(2) of Cr.P.C. It is the specific case of the petitioner that the complainant has not produced any evidence and documents before the Courts below to prove his case and the respondent's husband has no means to give money. Further, the learned counsel for the petitioner pointed out certain infirmities and inconsistencies in this case and also certain contradictions in material particulars and he has also deposited a sum of Rs.1,00,000/- before the trial Court. So this Court prima facie satisfied 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 as such, this Court is inclined to suspend the sentence imposed on the petitioner.

7. Accordingly, the relief of suspension of sentence is granted to the petitioner



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on the following conditions:-

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(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 learned Judicial Magistrate, Thiruvaiyaru.

(ii) 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

(iii) The petitioner shall appear before the concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal.

sd/-
30/01/2024

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/02/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PKN
TO
1 THE PRINCIPAL SESSIONS JUDGE,
THANJAVUR.

2 THE JUDICIAL MAGISTRATE,
THIRUVAIYARU.

3 DO THROUGH THE CHIEF JUDICIAL
MAGISTRATE, THANJAVUR DISTRICT AT KUMBAKONAM.

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+1 CC to M/s.S.RAJASEKAR, Advocate (SR-1256[I] dated 31/01/2024)

ORDER
IN
CRL MP(MD) No.17506 of 2023
IN
CRL RC(MD) No.1315 of 2023
Date :30/01/2024

SA/JGB/SAR. /02.02.2024/6P/5C

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