



CRL MP(MD) No.4456 of 2024

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

Wednesday, the Twenty Fourth day of April Two Thousand and Twenty Four

PRESENT

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

CRL MP(MD) No.4456 of 2024

in

CRL RC(MD) No.406 of 2024

MOIDEEN KANI

... PETITIONER/ APPELLANT

Vs

NADIAMMAL

... 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 the petitioner on bail by Suspending the Sentence imposed upon the petitioner in pursuant to the Judgment made in CrI,A.No.119/2018 dated 14/6/2023 passed by the learned 3rd Additional District and Sessions Judge, Thanjavur at Pattukottai confirming the judgment made in S.T.C.No.118/2017 dated 25.09.2018 on the file of the learned Judicial Magistrate Court, Fast Track Court, Pattukottai, Thanjavur District pending disposal of the above criminal revision petition.

Prayer in CRL RC(MD). 406/ 2024 :

To call for the records and set aside the impugned Judgment dated 14/6/2023 made in CrI.A.No.119/2018 passed by the learned 3rd Additional District and Sessions Judge, Thanjavur @ Pattukkottai confirming the Judgment passed by the learned Judicial Magistrate Court, Fast Track Court, Pattukottai, Thanjavur District made in S.T.C.No.118 of 2017 dated 25.09.2018 and allow the above 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.B.IAMEELARASU, Advocate for the petitioner and of MR.D.S.HAROON

<https://www.hmc.tn.gov.in/judis>



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RASHEED, Advocate on behalf of the Respondent, the court made the following order:-

This petition is filed to suspend the sentence imposed on the petitioner by the learned III Additional District and Sessions Judge, Thanjavur at Pattukkottai, in C.A.No.119 of 2018, dated 14.06.2024, in confirming the conviction and sentence imposed by the learned Judicial Magistrate, Fast Track Court, Pattukkottai, Thanjavur District, in S.T.C.No.118 of 2017, dated 25.09.2018 pending disposal of the main Criminal Revision.

2.The case of the respondent is that the accused is doing construction works. The respondent and the petitioner/accused have entered into an agreement for construction of house, in which, it has stated that the accused has to pay a sum of Rs.5,00,000/- to the respondent, for which, the accused gave a post dated cheque for a sum of Rs.5,00,000/-. When the respondent presented the said cheque before the Bank, it was dishonored stating stopped payment. Thereby, on 28.06.2017, the respondent had also issued legal notice. Even thereafter, 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.118 of 2017 before the learned Judicial Magistrate, Fast Track Court, Pattukkottai, Thanjavur District.

3. During trial, the complainant was examined as P.W.1 and exhibited 6



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documents as Ex.P.1 to Ex.P.6 and no material objects were marked. On the side of the accused, the accused was examined as D.W.1 and Ex.D.1 to Ex.D.3 were marked.

4. The learned Judicial Magistrate, Fast Track Court, Pattukkottai, Thanjavur District, after full-fledged trial, has passed the judgment in S.T.C.No.118 of 2017, dated 25.09.2018 and convicted the petitioner/accused for the offence under Section 138 of the Negotiable Instrument Act and sentenced him to undergo one year Simple Imprisonment and to pay compensation of Rs.5,00,000/- (Rupees Five Lakhs Only) to the complainant within a period of one month 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 III Additional District and Sessions Judge, Thanjavur @ Pattukkottai, in C.A.No.119 of 2018. However, the same was dismissed on 14.06.2023, 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



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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 Thousand only) of the compensation amount to the respondent. 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.1,50,000/- (Rupees One Lakh and Fifty Thousand only) as 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) as compensation amount to the credit of S.T.C.No.118 of 2017 on the file of the learned Judicial Magistrate, Fast Track Court, Pattukkottai, Thanjavur District, on or before 13.05.2024, failing which the sentence suspended shall automatically dismissed and the respondent is at liberty to execute the sentence



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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, Fast Track Court, Pattukkottai, Thanjavur District;

(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, Pattukkottai, Thanjavur District, 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 05.06.2024, for reporting compliance.

sd/-

24/04/2024

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/05/2024

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



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TO

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1 THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE,
THANJAVUR AT PATTUKKOTTAI.

2 THE JUDICIAL MAGISTRATE, FAST TRACK COURT, PATTUKKOTTAI,
THANJAVUR DISTRICT.

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

ORDER IN

CRL MP(MD) No.4456 of 2024
in CRL RC(MD) No.406 of 2024

Date :24/04/2024

RS/GS/SAR-(08.05.2024) 6P 4C

Madurai Bench of Madras High Court is issuing
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