



CRL MP(MD) No.5522 of 2024

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

Monday, the Tenth day of June Two Thousand and Twenty Four

PRESENT

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

CRL MP(MD) No.5522 of 2024
in
CRL RC(MD)No. 524 of 2024

1 IVAR TRAVELS
DOOR NO. 974 CUMBUM ROAD, THENI

2 SHANMUGANATHAN

... PETITIONERS/PETITIONERS

Vs

ALAGIRISAMY

... 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 imposed by the Judgment made in CrI.A.No.88 of 2021 dated 03.08.2023 on the file of the Additional District and Sessions Court, Theni confirming the conviction and sentence imposed by the Learned Judicial Magistrate,(Fast Track Court), Uthamapalayam made in C.C.No. 100 OF 2020 dated 22.11.2021, pending disposal of the Criminal Revision Petition.

Prayer in CRL RC(MD). 524/ 2024 :

To call for the records in CrI.A.No.88 of 2021 dated 03.08.2023 on the file of the Additional District and Sessions Court, Theni confirming the conviction and sentence imposed by the Learned Judicial Magistrate, Fast Track Court, Uthamapalayam made in C.C.No. 100 of 2020 dated 22.11.2021 and set aside the same by acquitting the petitioner.

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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 M/S. M.PRABAKARAN, Advocate for K.P.S. LAW ASSOCIATE, for the petitioners, the court made the following order:-

This petition is filed to suspend the sentence imposed on the petitioner by the learned Additional District and Sessions Court, Theni, in C.A.No.88 of 2021, dated 03.08.2023, in confirming the conviction and sentence imposed by the learned Judicial Magistrate, Fast Track Court, Uthamapalayam, in C.C.No.100 of 2020, dated 22.11.2021, pending disposal of the main Criminal Revision.

2.The case of the respondent is that the petitioners/accused had issued cheque amount of Rs.2,75,373/- for the business transaction dated 20.11.2019 bearing cheque No.184106, drawn on Axis Bank. While, the respondent presented the said cheque for payment, the same was returned with an endorsement as “Insufficient Funds”, for which, on 05.03.2020, the respondent had also issued legal 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 C.C.No.100 of 2020 before the learned Judicial Magistrate, Fast Track Court, Uthamapalayam.

3. During trial, the complainant has been examined as P.W.1 and exhibited 8 documents as Ex.P.1 to Ex.P.8 and no material objects were marked. On the side of

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the accused, the manager has been examined as D.W.1 and exhibited one document as Ex.D1.

4. The learned Judicial Magistrate, Fast Track Court, Uthamapalayam, after full-fledged trial, has passed the judgment in C.C.No.100 of 2020, dated 22.11.2021, 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 a cheque amount of Rs.2,75,373/- to the complainant within a period of three months 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 Additional District and Sessions Court, Theni, in C.A.No.88 of 2021. However, the same was dismissed on 03.08.2023, thereby confirming the conviction and sentence imposed on the petitioners. Aggrieved over the above said conviction and sentence, imposed by the Courts below, the petitioners preferred the present Criminal Revision Case along with the present Miscellaneous Petition seeking for suspension of sentence.

5. The learned counsel for the petitioners 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 petitioners has



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also undertakes to deposit a further sum of Rs.1,25,000/-(Rupees One Lakh and Twenty Five Thousand only) of the cheque 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 petitioners and also perused the materials available on record.

7. Considering the fact that the petitioners undertakes to deposit a further sum of Rs.1,25,000/- (Rupees One Lakh and Twenty Five Thousand only) of the cheque amount and there was no antecedent against the petitioners 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 petitioners shall jointly deposit a sum of Rs.1,25,000/-(Rupees One Lakh and Twenty Five Thousand only) of the cheque amount to the credit of C.C.No.100 of 2020 on the file of the learned Judicial Magistrate, Fast Track Court, Uthamapalayam, on or before 04.07.2024, 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;



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(ii) On such deposit, the petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Fast Track Court, Uthamapalayam;

(iii) The sureties shall affix her 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 her 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, the learned trial judge, is hereby directed to re-deposit the amount of Rs.1,25,000/- in any one of the Nationalized Bank in interest bearing account.

9. Post the matter on 05.07.2024, for reporting compliance.

sd/-
10/06/2024

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

VSG
TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, THENI.

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2 THE JUDICIAL MAGISTRATE,
(FAST TRACK COURT) UTHAMAPALAYAM.

3 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.

ORDER
IN
CRL MP(MD) No.5522 of 2024
in
CRL RC(MD)No. 524 of 2024
Date :10/06/2024

PKP/ED/SAR /18.06.2024/ 6P/ 4C
Madurai Bench of Madras High Court is issuing certified
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