

Crl.M.P.No.3497 of 2016

in

Crl.R.C. No.510 of 2016

DR.P.DEVADASS, J.

The petitioner Ezhilarasi, who is the appellant in C.A.No.78 of 2013 on the file of the II Additional District and Sessions Judge, Vellore at Ranipet which has been preferred as against the judgment in C.C.No.313 of 2011 on the file of the learned District Munsif, Ranipet seeks suspension of her sentence of imprisonment.

2. This matter arises out of a cheque bouncing case under section 138 of the Negotiable Instruments Act in C.C.No.313 of 2011 on the file of the learned District Munsif, Ranipet. She was convicted under section 138 of the Negotiable Instruments Act and sentenced to six months S.I. and to pay the cheque amount of Rs.1,50,000/- as compensation to the complainant with fine of Rs.10,000/-. It was confirmed by the learned II Additional District and Sessions Judge, Vellore at Ranipet in C.A.No.78 of 2013.

3. Upon hearing the arguments of the learned counsel for the revision petitioner and on perusing the judgment of the Trial Court and the materials on record, I find prima facie case. Her sentence was suspended by the Trial Court and also by the Appellate Court. It is a fact that it will take some time for the disposal of this criminal revision.

4. In this case, her sentence of imprisonment is to be suspended by granting her bail under section 391 Cr.P.C. However, there is an Order under section 357(3) Cr.P.C. to pay a compensation of Rs.1,50,000/- with fine of Rs.10,000/-.

5. The Courts, including the appellate Courts, revisional Courts has the power to grant stay of the direction. As per the direction of the Supreme Court in **Dilip S. Dahanukar Vs. Kotak Mahindra Co. Ltd., and another [2007(6) SCC 328]** case, the Court can suspend the direction to pay compensation either under section 357(1)(b) or under section 357(3) Cr.P.C. upon payment of a reasonable amount upon terms and conditions. However, while issuing such direction, the Court must also take into account the financial capacity of the accused to pay the said amount.

6. The learned counsel for the petitioner submitted that now the petitioner is financially incapacitated due to burning of his finger in having met with some misfortunes in his financial adventures.

7. Now, taking into account all the above aspects, it is Ordered as under:

- (i) Revision Bail under Section 397(1) Cr.P.C is granted to the

petitioner;

(ii) Her Sentence of imprisonment as well as sentence of fine are suspended;

(iii) There shall be two sureties, who shall execute a bond for Rs.15,000/- (Rupees fifteen thousand only) each to the satisfaction of the learned II Additional District and Sessions Judge, Vellore at Ranipet, as well as by the petitioner/accused to a like sum.

(iv) The Petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m. until further orders.

(v) There shall be stay of the operation of the direction to pay compensation under section 357(2) Cr.P.C. on condition that she shall deposit Rs.50,000/- (Rupees fifty thousand only) before the trial Court within 15 days from the date of receipt of a copy of this order.

(v) On such deposit, P.W.1 / complainant shall be disbursed the said Rs.50,000/- (Rupees fifty thousand only) obtaining an undertaking affidavit from him that as and when so ordered, he will remit the amount to the Court.

(vi) In default of making the deposit, the complainant can move this Court for cancellation of the revision bail, which will be decided after hearing both sides.

28.03.2016

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To

1. The II Additional District and Sessions Judge,
Vellore at Ranipet.
2. The District Munsif,
Ranipet.

Dr.P.DEVADASS, J.

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Dr. P.DEVADASS, J.

Heard the learned counsel for the
Revision Petitioner.

Admit this revision.

Send Notice to the respondent.

Private Notice is also permitted.

AOS to be filed.

Revision Petitioner shall file balance
typed set of papers.

Post after four weeks.

28.03.2016

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