

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Tenth day of October Two Thousand Seventeen

PRESENT

The Hon`ble Dr. Justice S. VIMALA

Crl.M.P.No.10025 of 2017

in Crl.R.C.SR.33639 of 2017

and Crl.M.P.SR.Nos.33641 and 33642 of 2017

S.KUBENDRAN,

[PETITIONER]

Vs

R.MOHAN KUMAR

[RESPONDENT]

Petition praying that in the circumstances stated therein the High Court will be pleased to

[I]condone the delay of 736 days in filing this criminal revision petition.CRL.MP.NO.10025/2017]

[II]call for the records in 3rd Addl.Sessions Judge, Thirupathur, Vellore District in C.A.no.4 of 2015 dated 28.04.2015 by confirming the Judgment rendered by the learned ADM CUM Judicial Magistrate, Ambur, Vellore district in C.C.NO.45 OF 2013, DATED 01.10.2013 and the same may be set aside and pass such further orders and thus render justice.[CRL.RC.SR.33639/2017]

[III] suspend the sentence which is conformed by the 3rd Addl.Sessions Judge,Thirupathur, Velloreo district in C.A.NO.4 OF 2015 DATED 28.04.2015 by confirming the judgment rendered by the learned ADM CUM JUDICIAL MAGISTRATE,AMBUR, VELLORE DISTIRCT IN C.C.NO.45 OF 2013 dated 01.10.2013.[CRL.MP.SR.NOS.33641/2017]

[IV] Exempt to petitioner to surrender before the lower court in connection with 3rd Addl.sessions Judge, Thirupathur, Vellore District in C.A.NO.4 of 2015 dated 28.04.2015 by confirming the Judgement rendered by the learned ADM CUM JUDICIAL MAGISTRATE,AMBUR, VELLORE DISTIRCT IN C.C.NO.45 of 2013 dated 01.10.2013.pending disposal of the above criminal Revision petition and pending on the file of this Hon`ble court and pass suhc further or other orders [CRL.MP.SR.NOS.33642/2017]

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.M.RAJENDIRAN Advocate for the petitioner , the court made the following order:-

Crl.M.P.No.10025 of 2017 has been filed by the petitioner/accused to condone the delay of 736 days in filing the above Criminal Revision Petition.

2. This court ordered notice by order dated 24.08.2017, but the notice was returned. Thus notice by publication has been ordered and the copy of the paper publication has also been filed before this court. Based on which the name of the respondent is ordered to be printed in the cause list and it has been printed accordingly.

3. The Criminal Revision has been filed by the accused in C.C.No.45 of 2013 before the learned Additional cum Judicial Magistrate, Ambur, Vellore District and the appellant before the III Additional Sessions Judge, Thirupathur, Vellore District. The trial court, has found the accused guilty under Section 138 of the Negotiable Instruments Act and sentenced him to undergo simple imprisonment for one year and also directed the appellant/accused to pay a sum of Rs.75,000/- as compensation under Section 357(3) of Cr.P.C., in C.C.No.45 of 2013. Against the conviction and sentence passed by the trial court, the accused as appellant has filed Criminal Appeal No.4 of 2015 on the file of the First Appellate Court. In the appellate Court, the conviction and sentence was confirmed and the appeal filed by the accused has been dismissed. The First Appellate Court has also ordered execution of NBW to implement the order of the trial court. Challenging the same, the Revision Petitioner has filed the present Criminal Revision Case and pending revision, he has filed CrI.M.P.SR.No.33641 of 2017 to suspend the sentence of imprisonment and he has also filed CrI.M.P.SR.No.33642 of 2017 praying for exempting him from surrendering before the Court below.

4. It is submitted by the learned counsel appearing for the Revision Petitioner that the accused will be willing to deposit the amount, as ordered by this Court, as a pre-condition for suspending the sentence.

5. The main contention raised in the Criminal Revision is that the cheque dated 18.12.2012 is only a collateral cheque and it was also a cancelled cheque. Hence, taking into consideration the submissions made by the learned counsel for the petitioner/accused and considering the other grounds raised in the Revision Petition, this court is inclined to grant the relief of suspension of sentence and for exemption to surrender before the Court below, on terms, pending application for condonation of delay petition in CrI.M.P.No.10025 of 2017.

6. Accordingly, the petitioner/accused is directed to deposit a sum of Rs.75,000/- (Rupees Seventy Five Thousand only) to the credit of C.C.No.45 of 2013 on the file of Additional cum Judicial Magistrate, Ambur, Vellore District, within a period of one week from the date of receipt of a copy of this order and on such deposit being made, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on further conditions (i) that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Ambur, Vellore District, and (ii) that the petitioner shall appear before the said learned Magistrate on the first working day of every

English Calendar month at 10.30 a.m., pending condone delay application and revision. As far as application seeking exemption to surrender is concerned, in view of the above observation, no further order need to be passed. Accordingly, the petitioner is exempted from surrendering before the Court below.

7. List the condone delay application and Criminal Revision Case in SR Stage along with other applications, after four weeks.

-sd/-

10/10/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE 3RD ADDITIONAL SESSIONS JUDGE
THIRUPATHUR, VELLORE DISTRICT.

2. ADDITIONAL DISTRICT MUNSIF-CUM-JUDICIAL
MAGISTRATE AMBUR, VELLORE DISTRICT.

3 THE JUDICIAL MAGISTRATE, AMBUR, VELLORE DISTRICT

4 THE CHIEF JUDICIAL MAGISTRATE,
VELLORE [FOR INFORMATION]

5. THE SECTION OFFICER
CRIMINAL SECTION, HIGH COURT, CHENNAI.

+1 C.C. to M/S.M.RAJENDIRAN Advocate on payment of necessary charges SR.NO. 19110

Order

in
CRL MP.10025/2017

in
CRL RC.SR33639/2017
AND CRL.MP.SR.NOS.33641 AND 33642 OF 2017

Date :10/10/2017

From 7.2.2001 the Registry is issuing certified copies of the BAIL/Anti.BAIL Orders in this format
RD 11/10/2017