

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Thirty First day of October Two Thousand Seventeen

PRESENT

The Hon`ble Dr. Justice S. VIMALA

CRIMINAL MISCELLANEOUS PETITION No.10344 of 2017

IN CRL RC.1099/2017

SUNIL KUMAR.C

[PETITIONER]

Vs

1 ABDUL KHADER.M.A

[RESPONDENT]

2 THE STATE REPRESENTED THROUGH
THE PUBLIC PROSECUTOR,
PUDUCHEERY.

Petition praying that in the circumstances stated therein the High Court will be pleased to suspend the sentence imposed on the petitioner in CA.No.39 of 2014 by the IInd Additional Sessions Judge at Puducherry dated 02.03.2017 confirming the conviction and sentence passed by the Judicial Magistrate Mahe, in S.T.R No.2019/2013 dated 17.10.2014 and pass such further order or other order as may be necessary in the circumstances of the case and thus render justice, CRL.RC.NO.1099 OF 2017 [IN CRL.MP.NO.10344 OF 2017]

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.C.V.KUMAR, Advocate for the petitioner, and of NO APPEARANCE [FOR R-1] PUBLIC PROSECUTOR [FOR R-2] on behalf of the Respondent the court made the following order:-

This Criminal Revision Case has been filed by the petitioner / accused, who was found guilty by the trial court for the offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo one year simple imprisonment and to pay a fine amount of Rs.10,000/-, in default, to undergo three months simple imprisonment. Against the conviction and sentence, the accused has filed Criminal Appeal No.39 of 2014 before the Second Additional Sessions Judge, Puducherry, wherein, the conviction and sentence passed by the trial court was confirmed. Hence, the petitioner seeks suspension of sentence.

2. Even though the first respondent / defacto complainant has been served and his name has been printed in the cause list, there is no representation on behalf of him.

3. The learned counsel appearing for the petitioner / accused would submit that even though an amount of Rs.7,50,000/- is claimed, the admitted liability of the petitioner / accused is only to the extent of Rs.3,00,000/-. It is also represented that there were negotiations between the parties and even though the defacto complainant participated in the negotiations, subsequently, he did not turn around and still there is a possibility of settlement. The learned counsel further submitted that considering the period involved in taking up the Revision Case, the sentence may be suspended.

4. Taking into consideration the submissions made by the learned counsel for petitioner and that the Revision Case is not likely to be taken-up for final hearing in the near future and considering the grounds of revision, this Court is of the view that the petitioner herein may be granted the relief of suspension of sentence, subject to the petitioner depositing a sum of Rs.1,00,000/- to the credit of the trial court.

5. Accordingly, subject to the condition that the petitioner / accused depositing a sum of Rs.1,00,000/- (Rupees one lakh only) to the credit of the trial court, within a period of three weeks from the date of receipt of a copy of this order, the substantive sentence of imprisonment alone is suspended and petitioner is directed to be enlarged on bail on a condition that the petitioner shall execute a bond in a sum of Rs.10,000/- each (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of learned Judicial Magistrate, Mahe, and on further condition that petitioner shall appear before the said Court on the first working day of every month, at 10.30 a.m., pending Revision Case.

6. Post the Criminal Revision Case in the usual course.

-sd/-
31/10/2017

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 II ADDITIONAL SESSIONS
JUDGE, PUDUCHERRY.

2 THE JUDICIAL MAGISTRATE,
MAHE.

3 THE CHIEF JUDICIAL MAGISTRATE
PUDUCHERRY [FOR INFORMATION]

4 THE PUBLIC PROSECUTOR,
PUDUCHEERY.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

C.C. to M/S.C.V.KUMAR Advocate on payment of necessary charges

Order

in
CRL MP.10344/2017

in
CRL RC.1099/2017

Date :31/10/2017

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MK:06/11/2017