

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.01.2017

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

CrI.R.C.No.63 of 2017

and

CrI.M.P.No.657 of 2017

N.Vijayaraj
S/o.P.Nataraj

.. Petitioner

Vs.

E.Adhikesavan
S/o.Ethirajulu Naidu

.. Respondent

Criminal Revision filed under Section 397 and 401 Cr.P.C. against the order of learned Principal District and Sessions Judge, Tiruvallur, passed in unnumbered C.A.No..... of 2016 on 12.12.2016, against S.T.C.No.516/2014 on the file Fast Track Court, Ambattur, dated 25.10.2016.

For Petitioner : Mrs.A.Yamuna

O R D E R

This revision arises against the order of learned Principal District and Sessions Judge, Tiruvallur, passed in unnumbered C.A.No..... of 2016 on 12.12.2016.

2. Petitioner was convicted of offence u/s.138 of the Negotiable Instruments Act in case tried in S.T.C.No.516 of 2014 on the file of Judicial Magistrate, Fast Track Court (Magisterial Level), Ambattur, under judgment dated 25.10.2016 and sentenced to 3 months S.I. and directed to pay a sum of Rs.4,25,000/- as compensation to the complainant within 1 month i/d 1 month S.I. On the date of judgment, the trial Court issued Non-bailable Warrant against the petitioner since he was not present before it. Learned counsel for petitioner submits that petition u/s.317 Cr.P.C. moved on behalf of petitioner was dismissed on such date. Against the conviction, petitioner preferred an appeal in unnumbered C.A.No... of 2016 on the file of learned Principal District and Sessions Judge, Tiruvallur. Appellate Court has returned the appeal papers for the reason that the trial Court has not suspended the sentence pending appeal and a Non-bailable Warrant was pending against the petitioner. Aggrieved, petitioner has filed the present revision.

3. Heard learned counsel for petitioner.

4. Considering that the petitioner stands convicted for offence u/s.138 of the Negotiable Instruments Act and the maximum sentence of imprisonment that can be passed there regards is for a period of two years as also the submission of learned counsel for petitioner that petitioner was unable to attend on the date of hearing since he had then suffered a heart attack, this Court considers it appropriate to direct as follows:

- (i) Petitioner shall move a petition u/s.70(2) Cr.P.C. informing the factual position and seek recall of the warrant issued by learned Judicial Magistrate, Fast Track Court (Magisterial Level), Ambattur. For such purpose, it will not be necessary for the petitioner to appear before learned Judicial Magistrate, Fast Track Court (Magisterial Level), Ambattur, in person. Learned Judicial Magistrate, in the facts and circumstances of the case and the nature of offence, is directed to consider the same favourably.
- (ii) After recall of Non-bailable Warrant issued against him, petitioner may present the appeal papers before learned Principal District and Sessions Judge, Tiruvallur. Appellate Court may consider the petition for suspension of sentence moved by the petitioner.

The Criminal Revision Case is disposed of with the above direction. Connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Principal District and Sessions Judge,
Tiruvallur.

2. The Judicial Magistrate
Fast Track Court Magisterial Level
Ambattur

+1 cc to Mr.G.Arun Advocate sr 3613

Cr1.R.C.No.63 of 2017

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