

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Thirtieth day of August Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice R.SURESH KUMAR

CRIMINAL MISCELLANEOUS PETITION No.10902 of 2017

IN CRL RC.1146/2017

P.THANGARAJ

[PETITIONER]

Vs

K.K.SRINIVASAN

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.1146/2017 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed in S.T.C.No.523/2013 on the file of Judicial Magistrate (FTC No.I), Erode by a Judgement dated 02.05.2016 and the same was confirmed by the Appellate court in C.A.No.118/2016 on the file of II Additional District Judge of Erode by a judgement dated 19.07.2017 and enlarge the petitioner on bail.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.1146/2017 on the file of the High Court and upon hearing the arguments of M/S.C.S.SARAVANAN, Advocate for the petitioner , the court made the following order:-

This is a petition to suspend the sentence imposed against the petitioner by the trial Court, as confirmed by the appellate Court.

2. The learned counsel for the petitioner would submit that there was no transaction between the petitioner and the respondent and in order to give security towards the loan obtained by D.W.2, the disputed cheque was given by the petitioner. The learned counsel also submitted that this position has been cleared by way of evidence adduced by D.W.2 and inspite of that, such evidence has not been considered in proper perspective by the trial Court as well as by the appellate Court.

3. After considering the above submissions made by the learned counsel for the petitioner, this Court feels that in the case under Sec.138 of Negotiable Instruments Act, though the presumption is always in favour of the complainant, under Sec.139 of the Act, if the rebuttal comes from the accused side, the same has to be considered in proper prospective and it cannot be easily brushed aside without strong ground. However, this aspect has to be thoroughly examined and

to be decided only at the time of final hearing of the revision. Since it takes some considerable time to decide the main revision case, the following interim order is passed:

4. The substantiative sentence of imprisonment imposed against the petitioner alone is suspended on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for the like sum to the satisfaction of Judicial Magistrate, Fast Track Court No.I, Erode within a period of two weeks from the date of receipt of a copy of this order and also the petitioner shall appear before the concerned Court at 10.30 a.m on the first working day of every English calendar month until further orders. Notice.

-sd/-

30/08/2017

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 JUDICIAL MAGISTRATE,
FAST TRACK COURT NO.I, ERODE

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE[FOR INFORMATION]

3 THE II ADDITIONAL DISTRICT
JUDGE, ERODE

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE

+1 C.C. to M/S.C.S.SARAVANAN Advocate on payment of necessary charges SR.NO. 16524

Order

in
CRL MP.10902/2017

in
CRL RC.1146/2017

Date :30/08/2017

From 7.2.2001 the Registry is issuing certified copies of the BAIL/Anti.BAIL Orders in this format
RD 31/08/2017