

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twelfth day of October Two Thousand Seventeen

PRESENT

The Hon`ble Dr. Justice S. VIMALA

CRIMINAL MISCELLANEOUS PETITION No.12727 & 12729 of 2017

IN CRL RC.1310/2017

A.RATHINASAMY,

[PETITIONER]

Vs

R.VELLIANGIRI,

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to suspend the sentence imposed on the petitioner in C.A.NO.46 of 2016 on the file of the learned I Addl. District and Sessions Court, Tiruppur dated 19.07.2017 confirming the conviction and sentence passed by the learned Judicial Magistrate cum Fast Track Court, Tiruppur in C.C.No.102 of 2012 dated 07.04.2016 and enlarge the petitioner on bail. [IN CRL.M.P.No.12727 of 2017]

(i) To exempt the petitioner from surrendering before the trial court in view of the judgement in C.A.NO.46 of 2016 dated 19.07.2017 of the Learned I Additional District and Sessions Court, Tiruppur confirming the conviction and sentence passed by the learned Judicial Magistrate cum Fast Track Court, Tiruppur in C.C.No.102 of 2012 dated 07.04.2016 pending disposal of the above Criminal Revision petition and pass such further or other orders. CRL.M.P.No.12729 of 2017

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.N.RAMESH, Advocate for the petitioner the court made the following order:-

The Criminal Revision has been filed by the Petitioner/accused in C.C.No.102 of 2012 before the learned Judicial Magistrate, Fast Track Court, Tiruppur, and the appellant before the I Additional District and Sessions Judge, Tiruppur. The trial court, has found the accused guilty under Section 138 of the Negotiable Instruments Act and convicted and sentenced him to undergo simple imprisonment for one year and to pay a fine of Rs.1000/-, in default to undergo simple imprisonment for a period of one month. Against the conviction and sentence passed by the trial court, the accused as appellant has filed Criminal Appeal

No.46 of 2016 on the file of the First Appellate Court. In the appellate Court, the conviction and sentence was confirmed by Judgment dated 19.07.2017 and the appeal filed by the accused has been dismissed. Challenging the same, the Revision Petitioner/accused has filed the present Criminal Revision Case and pending revision, he has filed CrI.M.P.Nos.12727 and 12729 of 2017 to suspend the sentence of imprisonment and to exempt the petitioner from surrendering before the trial court respectively.

2. Notice to the respondent returnable in four weeks in addition to private service.

3. The contention of the learned counsel appearing for the Revision Petitioner/accused is that the defence taken by the accused had rebutted presumption under Section 138 of the Negotiable Instruments Act but the defence has not been properly considered.

4. Considering the above submission of the learned counsel appearing for the Revision Petitioner/accused and also considering the facts that the petitioner has paid the fine amount and preferred the above Criminal Revision and that there are arguable points involved in the revision, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence and for exemption to surrender before the Court below. [CRL.M.P.No.12727/17]

5. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail 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 a like sum to the satisfaction of the learned Judicial Magistrate, Tiruppur, and on further condition 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 disposal of the revision. [CRL.M.P.No.12729/17]

6. In view of the order passed in Criminal M.P. No.12727 of 2017, no order need to be passed in this petition. Accordingly, Criminal M.P.No.12729 of 2017 is closed and the petitioner is exempted from surrendering before the Court below.

-sd/-
12/10/2017

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 I, ADDITIONAL DISTRICT AND
SESSIONS, JUDGE, TIRUPPUR

2 THE JUDICIAL MAGISTRATE,
CUM FAST TRACK COURT, TIRUPPUR

3 THE JUDICIAL MAGISTRATE,
TIRUPPUR

4 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR [FOR INFORMATION]

C.C. to M/S.N.RAMESH Advocate on payment of necessary
charges

Order

in
CRL MP.12727/2017

in
CRL RC.1310/2017

Date :12/10/2017

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TA-13/10/2017