

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.12782 & 12784 of 2017

IN CRL RC.1314/2017

K. VENKATESH

[PETITIONER]

Vs

K. PUGALENTHI,

[RESPONDENT]

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

(I)To suspend the sentence of imprisonment imposed in the judgement dated 30.1.2017 made in C.C. No.1322 of 2012 on the file of the Metropolitan Magistrate, Fast track Court No.III, Saidapet and the same as confirmed by Judgement dated 22.09.2017 made in C.A.No.38 of 2017 on the file of the XVI th Additional City Civil Court, Chennai.[IN CRL.MP.12782/2017]

(II) To exemption from surrendering before the trial court in pursance to the dated 22.09.2017 made in C.A.No.38 of 2017 on the file of the XVI Additional City Civil Court, Chennai conforming the conviction imposed in judgement dated 30.01.2017 made in C.C.No.1322 of 2012 on the file of the Metropolitan Magistrate, Fast Track Court No.III, Saidapet.[IN CRL.M.P.12784/2017]

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

The Criminal Revision has been filed by the Petitioner/accused in C.C.No.1322 of 2012 before the learned Metropolitan Magistrate, Fast Track Court-III at Saidapet, and the appellant before the XVI Additional Sessions Judge, Chennai. The trial court, has found the accused guilty under Section 138 of the Negotiable Instruments Act and sentenced him to undergo simple imprisonment for six months and also directed to pay the cheque amount as compensation to the complainant u/s.255(2) Cr.P.C. Against the conviction and sentence passed by the trial court, the accused as appellant has filed Criminal Appeal No.38 of 2017 on the file of the First Appellate Court. In the appellate Court, the conviction and sentence was confirmed by Judgment dated 22.09.2017 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 Crl.M.P.12782 and 12784 of 2017 seeking to enlarge him on

bail by suspending the sentence imposed and to exempt the petitioner from surrendering before the trial court.

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

3. It is submitted by the learned counsel appearing for the Revision Petitioner that the accused has already deposited a sum of Rs.90,000/- to the credit of C.C.No.1322 of 2012 before the trial court and will be willing to deposit the amount, as ordered by this Court, as a pre-condition for suspending the sentence.

4. Considering the above submission of the learned counsel appearing for the Revision Petitioner/accused and also considering the grounds raised in the Revision Petition that the courts below failed to note that the standard of proof in discharge of the burden in terms of Section 138 of N.I.Act being a preponderance of probability, the inference can be drawn not only from the materials brought on record but also from the reference to the circumstances upon which the accused relies, this court is inclined to grant the relief of suspension of sentence, on terms, pending Criminal Revision.

5. Accordingly, the petitioner/accused is directed to deposit a sum of Rs.2,50,000/- (Rupees One Lakh only) to the credit of C.C.No.1322 of 2012 on the file of Metropolitan Magistrate, Fast Track Court No.III, Saidapet, within a period of one month from the date of receipt of a copy of this order. Subject to that condition, 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 Metropolitan Magistrate, FTC No.III, Saidapet, 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 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.

-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 THE XVI ADDITIONAL
CITY CIVIL COURT, CHENNAI.

2 THE METROPOLITAN
MAGISTRATE, FAST TRACK COURT,
NO. III, SAIDAPET.

+2C.C. to M/S.D.LAKSHMIPATHY Advocate on payment of
necessary charges SR.NO. 19344,19345

Order

in
CRL MP.12782&12784/2017

in
CRL RC.1314/2017

Date :12/10/2017

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

EGR 13/10/2017