

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.12788 of 2017

IN CRL RC.1316/2017

1 M/S.ARTHI FOOD PRODUCTS [PETITIONER]
PROP.S.KRISHNAMOORTHY, (48 YEARS) S/O.K.
SUNDARAM, 18-A, KONGAMPALAYAM, GANGAPURAM
VILLAGE, CHITHODE VIA, ERODE.

Vs

P.NALLASAMY [RESPONDENT]
S/O.PERIYATHAMBI GOUNDER,
BHAVANI MAIN ROAD,
KARATTANKADU THOTTAM,
NAMASILAM MADAI,
NASIYANUR POST, ERODE.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.RC.No.1316/2017 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner by the judgment 12.09.2017 passed in C.A.No.120/2017 on the file of the Additional Sessions, Magalir Neethi Mandram, (Fast Track Mahila Court), Erode, Erode District confirming the judgment dated 26.04.2017 passed in S.T.C.No.423/2014 on the file of the Judicial Magistrate (Fast Track) Court No.II, Erode pending disposal of the above revision.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.RC.No.1316/2017 on the file of the High Court and upon hearing the arguments of M/S.I.C.VASUDEVAN, Advocate for the petitioner, the court made the following order:-

The Criminal Revision has been filed by the Petitioner/accused in S.T.C.No.423 of 2014 before the learned Judicial Magistrate, Fast Track No.2, Erode, and the appellant before the Additional Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court) Erode. The trial court, has found the accused guilty under Section 138 of the Negotiable Instruments Act and sentenced him to undergo simple imprisonment for one year and to pay a fine of Rs.3000/-, in default to undergo 3 months imprisonment. Against the conviction and sentence passed by the trial court, the accused as appellant has filed Criminal Appeal No.120 of 2017 on the file of the First Appellate Court. In the appellate Court, the conviction and sentence was confirmed by Judgment dated 12.09.2017 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.No.12788 of 2017 to suspend the sentence of imprisonment.

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 prosecution cannot be initiated against the Proprietary concern which is neither a firm nor a company and hence the complaint itself is not sustainable in law. It is further represented that the petitioner/accused 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 facts that the petitioner has paid the fine amount of Rs.3,000/- 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, on terms, pending Criminal Revision.

5. Accordingly, the petitioner/accused is directed to deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) to the credit of S.T.C.No.423 of 2014 on the file of Judicial Magistrate, (Fast Track) Court No.2, Erode, within a period of three weeks 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 Judicial Magistrate Court (Fast Track) No.2, Erode, 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.

-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 JUDICIAL MAGISTRATE
COURT FAST TRACK NO.2, ERODE

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE (FOR INFORMATION)

3 THE ADDITIONAL SESSIONS JUDGE,
MAGALIR NEETHI MANDRAM (FAST TRACK MAHILA COURT) ERODE

+1 C.C. to M/S.I.C.VASUDEVAN Advocate on payment of
necessary charges Sr.No.19464

Order
in
CRL MP.12788/2017
in
CRL RC.1316/2017
Date :12/10/2017

From 7.2.2001 the Registry is issuing certified
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MD: 13/10/2017