

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Thirteenth day of November Two Thousand Seventeen

PRESENT

The Hon`ble Dr Justice S.VIMALA

CRIMINAL MISCELLANEOUS PETITION Nos.14054 & 14055 of 2017

IN CRL RC.1424/2017

H.UBAIDULLA,

[PETITIONER/APPELLANT/ACCUSED
IN BOTH THE PETITIONS]

Vs

S. ELANGO,

[RESPONDENT IN BOTH THE PETITIONS]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal RC.No.1424 OF 2017 on the file of the High Court, the High Court will be pleased to

(1) suspend the sentence imposed in the C.C.No.121 of 2010 dated 07.10.2014 on the file of Judicial Magistrate No.II, Cuddalore conformed in C.A.No.58 of 2014 dated 03.07.2017 on the file of Sessions Judge, Cuddalore Division, Cuddalore, (CRL.MP.14054/2017)

(2) exempt the petitioner from surrendering pursuant to the judgement in C.C.No.121 of 2010 dated 07.10.2014 on the file of Judicial Magistrate No.II, Cuddalore conformed in C.A.No.58 of 2014 dated 03.07.2017 on the file of Sessions Judge, Cuddalore Division, Cuddalore. (CRL.MP.NO.14055/2017)

Order : These petitions coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.RC.No.1424 of 2017 on the file of the High Court and upon hearing the arguments of M/S.K.KANNAN, Advocate for the petitioner (IN BOTH THE PETITIONS) the court made the following order:-

The petitioner / accused was found guilty by the trial court / Judicial Magistrate No.II, Cuddalore, in C.C.No.121 of 2010 and has been convicted and sentenced under the offence that is tabulated as hereunder:-

Convicted under the Offence	Sentenced
U/s.138 and 142 of the N.I.Act	to undergo simple imprisonment for a period of six months and ordered to pay the cheque amount, i.e., Rs.5,00,000/-.

2. Against the conviction and sentence passed by the trial court, the accused, as appellant, has filed Criminal Appeal No.58 of 2014 on the file of learned Sessions Judge, Cuddalore Division, Cuddalore, wherein, the conviction and sentence was confirmed by judgment, dated 03.07.2017. Challenging the same, the Revision Petitioner/accused has filed the present Criminal Revision Case and pending Revision, the petitioner/accused has filed Crl.M.P.Nos.14054 and 14055 of 2017 seeking to suspend the sentence of imprisonment and to exempt him from surrendering before the trial court.

3. The main contention raised by the learned counsel for the petitioner is that the counsel, who issued notice, was running the chit transaction and only towards the collateral security, the cheque was issued and the entire chit transaction amount has already paid and the cheque was misused. It is also stated that, in order to show the bonafides, the petitioner herein is willing to deposit a sum of Rs.1,00,000/- within the stipulated time that may be fixed by this Court. Further, the learned counsel for the petitioner submits that there are arguable points involved in this revision and prayed for suspending the sentence imposed and to exempt the petitioner from surrendering before the trial court.

4. Considering the facts and circumstances of the case and the grounds of revision and also the undertaking that the accused will deposit a sum of Rs.1,00,000/-, this Court is of the considered view that the petitioner/accused herein is entitled to the relief of grant of suspension of sentence and exemption to surrender before the trial court.

5. Accordingly, the substantive sentence of imprisonment alone on the petitioner is suspended and the petitioner is directed to be enlarged on bail, upon the following conditions:-

(i) The petitioner herein shall deposit a sum of Rs.1,00,000/- (Rupees one lakh only) within a period of four weeks from the date of receipt of a copy of this order;

(ii) 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 No.II, Cuddalore;

(iii) 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.

6. As far as application seeking exemption to surrender is concerned, in the light of the judgment of the Honourable Supreme Court rendered in the case of **Easwaramurthy Vs. N.Krishnaswamy (2006) CRI.L.J.4105** which in turn relied on the decision of the Apex Court in **Bihari Prasad Singh Vs. State of Bihar (2000) SCC (Cri) 1380**, this Court considers it appropriate to allow this petition as

prayed for. Accordingly, the petitioner is exempted from surrendering before the Court below.

-sd/-
13/11/2017

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,
NO.II, CUDDALORE.

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE. [FOR INFORMATION]

3 THE SESSIONS JUDGE,
CUDDALORE DIVISION, CUDDALORE.

+1 C.C. to M/S.K.KANNAN Advocate on payment of necessary charges
-Sr.No.20895

Order

in
CRL MP.Nos.14054 & 14055/2017

in
CRL RC.1424/2017

Date :13/11/2017

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
ths : 16.11.2017