

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Sixteenth day of November Two Thousand Seventeen

PRESENT

The Hon`ble Dr. Justice S. VIMALA

CRIMINAL MISCELLANEOUS PETITION No.14296 of 2017

IN CRL RC.1442/2017

1 SARTHAK INVESTMENT AND [PETITIONERS]
FINANCE PVT.LTD.,
REP BY ITS DIRECTOR RAKESH KUMAR GUPTA,
NO.29A, 1ST FLOOR,
HAUZ KHAS, NEW DELHI-1100 016.

2 RAKESH KUMAR GUPTA,

Vs

ANIL AGARWAL, [RESPONDENT]
SOLE PROPRIETOR OF M/S.AGARWAL STEELS,
BEING REP.BY ITS POWER OF ATTORNEY HOLDER,
N.NITYAANANDAM,
NO.71, SEMBEDESS STREET, CHENNAI-1.

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

(I)To suspend the sentence imposed by the learned XVIII Additional Sessions Judge, Chennai in Crl.A.No.300/2016 dated 30.10.2017 and conforming the Judgment passed in C.C.No.9047/2007 on the file of the learned Metropolitan Magistrate, Fast Track Court IV, George Town, Chennai-1 dated 18.11.2016 pending disposal of the Crl.R.C.No. /2017 on the file of this Honble Court.[IN CRL.MP.14296/2017]

(II) To allow the petition for exempting the petitioner from his surrender the Judgment by the learned XVIII Additional Sessions Judge, Chennai in Crl.A.No.300/2016 dated 30.10.2017 and conforming the judgment passed in C.C.No.9047/2007 on the file of the learned Metropolitan Magistrate, Fast Track Court IV, George Town, Chennai-1 dated 18.11.2016 pending disposal of the Crl.R.C.No. /2017 on the file of this Honble Court.[IN CRL.MP.14297/2017]

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

This Criminal Revision Case has been filed by the petitioners/accused, who were found guilty by the trial court for the offence under Section 138 of the Negotiable Instruments Act

and A-2 was sentenced to undergo six months simple imprisonment and A-1 and A-2 were directed to pay an amount of Rs.4,50,000/= within one month. Against the conviction and sentence, the accused has filed Criminal Appeal No.300 of 2016 before the XVIII Addl. Sessions Judge, Chennai, wherein, the conviction and sentence passed by the trial court was confirmed. Hence, the petitioner seeks suspension of sentence.

2. The learned counsel appearing for the petitioner/accused submits that the dispute relates to an amount of Rs.2,25,000/- and the trial court has failed to take note of pertinent facts and evidences and has erroneously found the accused guilty. The learned counsel further submitted that this Court may put the petitioner to any strict condition and also considering the amount involved and the period involved in taking up the Revision Case, the sentence may be suspended.

4. Taking into consideration the submissions made by the learned counsel for petitioners and that the Revision Case is not likely to be taken-up for final hearing in the near future and considering the grounds of revision and further the fact that the petitioners undertake to deposit an amount of Rs.1,00,000/= to the credit of C.C. No.9047/2007 on the file of the Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai, this Court is of the view that the petitioner herein may be granted the relief of suspension of sentence, subject to the petitioners depositing the sum of Rs.1,00,000/- as undertaken above.

5. Accordingly, subject to the condition that the petitioners/accused depositing a sum of Rs.1,00,000/- (Rupees One Lakh only) to the credit of C.C. No.9047/2007 on the file of the Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai, within a period of three weeks from the date of receipt of a copy of this order, as undertaken by them, the substantive sentence of imprisonment alone is suspended and 2nd petitioner is directed to be enlarged on bail on a condition that the 2nd petitioner shall execute a bond in a sum of Rs.10,000/- each (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of learned Metropolitan Magistrate, Fast Track Court No.IV, George Town, Chennai, and on further condition that 2nd petitioner shall appear before the said Court on the first working day of every month, at 10.30 a.m., pending Revision Case. The surrender of the 2nd petitioner before the trial Court is exempted until further orders.

6. Post the Criminal Revision Case in the usual course.

-sd/-

16/11/2017

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 XVIII ADDITIONAL SESSIONS
JUDGE, CHENNAI.

2 THE METROPOLITAN MAGISTRATE,
FAST TRACK COURT NO. IV, GEORGE TOWN,
CHENNAI.

+1C.C. to M/S.S.SENTHILVEL Advocate on payment of necessary
charges SR.NO. 21044

Order

in
CRL MP.14296/2017

in
CRL RC.1442/2017

Date :16/11/2017

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EGR 17/11/2017