

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2018

CORAM:

THE HON'BLE MR.JUSTICE M.V.MURALIDARAN

Crl.R.C.No.1559 of 2017

P.Silverstar @ Silver Stalin

.. Petitioner

Vs.

Mask India Financial Services,
Rep.by its Proprietor,
P.Murugavel
D.No.751, Plague Mariamman Kovil Street,
P.N.Palayam,
Coimbatore 631 045.

... Respondent

Criminal Revision filed under Sections 397 r/w 401 Cr.P.C. praying to set aside the order dated 27.11.2017 made in C.M.P.No.3029 of 2017 on the file of the learned Principal District and Sessions Judge, Coimbatore.

For Petitioner : Mr.M.N.Balakrishnan

For Respondent : No appearance

O R D E R

This civil revision petition is filed to set aside the order passed by the Principal District and Sessions Judge, Coimbatore dated 27.11.2017 made in C.M.P.No.3029 of 2017 .

2. Petitioner has been convicted for the offence under Section 138 of Negotiable Instruments Act in case tried in C.C.No.497 of 2017 on the file of the Judicial Magistrate, Fast Track Court (Magisterial Level No.I), Coimbatore. The trial court under Judgment dated 06.11.2017 convicted the petitioner under Section 138 of N.I.Act and sentenced to undergo six months S.I. and to pay the compensation of Rs.3,00,000/- within two months from the date of the Judgment, in default to undergo two months S.I.

3.As on 27.11.2017, the date of judgment, petitioner has not appeared before the Trial Court, the trial court passed Judgment and issued NBW against the petitioner. The

petitioner filed miscellaneous petition in CrI.M.P.No.3029 of 2017 in C.A.No.400 of 2017 on the file of the Principal District and Sessions Judge, Coimbatore, which was dismissed on the reasoning that if practice adopted by the petitioner is permitted, the accused would absent himself at the time of pronouncement of judgment. Trial Court was directed to secure the petitioner in the case.

4. The learned counsel for the petitioner would submit that the petitioner was unable to appear before the trial Court on the date of Judgment as he was hospitalised. Such non appearance is neither wilful nor wanton.

5. Considering the submission made by the learned counsel for the petitioner, this court sets aside the orders under challenge subject to the petitioner effecting payment in a total sum of Rs.3,000/- to the credit of Tamil Nadu State Legal Services Authority and producing proof of such payment before the trial Court within one week from the date of receipt of a copy of this order. Petitioner is now permitted to move petition under Section 70(2) Cr.P.C.before the trial Court seeking recall of NBW informing the reasons for his absence. Petitioner to appear before the trial Court within a period of one week from the date of receipt of copy of this order. Upon recall of NBW, petitioner may approach the learned Principal District and Sessions Judge, Coimbatore, by way of fresh petition seeking suspension of sentence.

6. This criminal revision petition is allowed with the above observation.

Sd/-
Assistant Registrar (CS-vii)

//True Copy//

सत्यमेव जयते Sub Assistant Registrar

kkd
To

1. The Principal District and Sessions Judge,
Coimbatore.

2. The Member Secretary,
Tamil Nadu State Legal Service Authority,
Chennai.

CrI.R.C.No.1559 of 2017

TR(08/03/2018)