

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 25.10.2018

CORAM :
THE HONOURABLE MR. JUSTICE P.N.PRAKASH

CRL.O.P.No.24251 of 2018

1.M/s.Devaraj Agro Industries Pvt Ltd.,
Rep. by its Managing Director D.Chandrasekar,
No.9B, M Block, 3rd Avenue, Anna Nagar East,
Chennai - 600 102.

2.D.Chandrasekar

.. Petitioners

Vs

M.Venkatrathnam

.. Respondent

Criminal Original Petition filed under Section 482 Cr.P.C.,
praying to set aside the order of the learned Principal Sessions
Judge passed in Crl.M.P.No.10941 of 2018 dated 10.07.2018 and to
pass an order granting extension of time for compliance of the
order in Crl.M.P.No.17304 of 2018 dated 09.10.2018 passed by the
learned Principal Sessions Judge, Chennai.

For Petitioners : Mr.V.Ramamurthy

O R D E R

This Criminal Original Petition has been filed to set aside
the order of the Principal Sessions Judge, Chennai, passed in
Crl.M.P.No.10941 of 2018 dated 10.07.2018 and to pass an order
granting extension of time for compliance of the order in
Crl.M.P.No.17304 of 2018 dated 09.10.2018 passed by the
Principal Sessions Judge, Chennai.

2. The petitioners herein faced prosecution in C.C.No.1380
of 2015 before the Fast Track Court No.II at Magisterial Level,
Egmore, Chennai, for the offence under Section 138 of the
Negotiable Instruments Act and were convicted on 04.06.2018 and
the 2nd petitioner was sentenced to undergo one year simple
imprisonment and a sum of Rs.40,68,000/- was directed to be paid
as compensation to the complainant. Thereafter, the petitioners
filed a Criminal Appeal in C.A.No.359 of 2018, before the
Sessions Court, Chennai and in Crl.M.P.No.10941 of 2018 in
C.A.No.359 of 2018, they prayed for suspension of the sentence.
The Sessions Court, Chennai, by an order dated 10.07.2018,
suspended the substantive sentence of imprisonment, on a
condition that the 2nd petitioner should surrender before the
trial Court within a period of two weeks and execute a bond for
Rs.10,000/- with two sureties. However, the 2nd petitioner did
not comply with the said order and sought extension of time

before the Sessions Court, Chennai, in Crl.M.P.Nos.12366 and 13551 of 2018. The Sessions Court extended the time twice, despite which, the 2nd petitioner did not comply with the aforesaid condition. The petitioners made a third application in Crl.M.P.No.17304 of 2018 for extension of time, which was dismissed by the Sessions Court, by the impugned order dated 09.10.2018, challenging which, the petitioners are before this Court.

3. Heard Mr.V.Ramamurthy, learned counsel appearing for the petitioners, who submitted that the 2nd petitioner was convicted and sentenced in another case in C.C.No.15180 of 2015 and was remanded to judicial custody on 18.06.2018 and was released from prison, only on 27.09.2018, and therefore, the 2nd petitioner was unable to comply with the earlier order. In support of his submission, he has submitted a copy of the remand warrant and the 2nd petitioner has also filed an affidavit dated 25.10.2018, wherein in Para No.3, it is stated as follows:

"3. I state that, since I was convicted in another case in C.C.No.15180/2015, I was arrested and remanded to judicial custody on 18.06.2018. Hence, I could not be able to comply the above said condition i.e., within 2 weeks from the date of the order dated 10.07.2018. Subsequently, time was extended till 14.08.2018 by the Hon'ble Principal Sessions Judge periodically in Crl.M.P.No.12366/2018 and again time was extended till 05.09.2018 in Crl.M.P.No.13551/2018. The non compliance of the above said condition imposed on me since I was remanded to judicial custody and I was behind the bars and was released on bail on 27.09.2018."

4. In view of the above, two weeks time is granted from the date of receipt of a copy of this order, to comply with the order dated 10.07.2108 passed by the Principal Sessions Judge, Chennai, in Crl.M.P.No.10941 of 2018 in C.A.No.359 of 2018 against C.C.No.1380 of 2015. Rest of the conditions shall remain the same.

Accordingly, this Criminal Original Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

krk/mkn

To

1.The Metropolitan Magistrate,
Fast Track Court No.II at Magisterial Level,
Egmore at Allikulam,
Chennai.

2.The Principal Sessions Judge,
Chennai.

3.The Public Prosecutor,
High Court, Madras.

+lcc to Mr.V.Ramamurthy, Advocate, S.R.No.73209

Crl.O.P.No.24251 of 2018

rrs 12/11/2018



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