

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Eighth day of January Two Thousand Nineteen

PRESENT

The Hon'ble Mr Justice V. PARTHIBAN

CRIMINAL MISCELLANEOUS PETITION No.182 of 2019

in CRL.R.C.No.27 of 2019

HEMALATHA

[PETITIONER]

vs

JITHESH

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.R.C.No.27 of 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence of imprisonment imposed on the petitioner in Judgment dated 26.11.2018 and I Additional District and Sessions Court Coimbatore reversing the Judgment dated 14.07.2016 made in C.C.No.166 of 2013 on the file of the Learned Judicial Magistrate, Fast Track Court at Magistrate Level 2, Coimbatore and enlarge the petitioner on bail pending disposal of the above CRL.R.C.No.27 of 2019 [CRL.M.P.No.182 of 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.R.C.No.27 of 2019 on the file of the High Court and upon hearing the arguments of M/S.D.R.ARUN KUMAR, Advocate for the petitioner, the court made the following order:-

The petitioner/appellant was found not guilty for the offence under Section 138 of the Negotiable Instruments Act by the learned Judicial Magistrate, Fast Track Court, at Magistrate Level 2, Coimbatore, under judgment, dated 14.07.2016, in C.C.No.166 of 2013. The said judgment passed by the trial Court was reversed by the learned I Additional District and Sessions Judge, Coimbatore, under judgment in C.A.No.72 of 2017, dated 26.11.2018. Hence, the petitioner seeks suspension of sentence.

2.The learned counsel for the petitioner/appellant would submit that there are several infirmities and inconsistencies found in the prosecution case and the trial Court has rightly found the petitioner/appellant not guilty under Section 138 of the NI Act,

however, the appellate Court has wrongly reversed the said judgment. It is contended that there are contradictions in the material particulars between the evidence of the prosecution witnesses.

3. In view of the fact that there are several infirmities in the prosecution case and there are arguable points involved in the revision, as contended by learned counsel for petitioner, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

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

(i) The petitioner/appellant shall deposit 50% of the cheque amount, i.e. a sum of Rs.01,00,000/- (Rupees One lakh) to the credit of C.C.No.166 of 2013, on the file of the Judicial Magistrate, Fast Track Court at Magistrate Level II, Coimbatore, within a period of four weeks from the date of receipt of a copy of this order;

(ii) The petitioner/appellant/accused 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 learned Judicial Magistrate, Fast Track Court, Magistrate Level-2, Coimbatore;

(iii) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. pending disposal of the revision.

(iv) In case the conditions are not complied with, the interim order of suspension of sentence shall stand vacated automatically without further reference to this Court.

-sd/-

08/01/2019

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
FAST TRACK COURT MAGISTRATE LEVEL II,
COIMBATORE

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE [FOR INFORMATION]

3 THE I ADDITIONAL DISTRICT AND SESSIONS COURT,
COIMBATORE

C.C. to M/S.D.R.ARUN KUMAR Advocate on payment of necessary
charges

Order

in

CRL MP.No.182 of 2019

in

CRL.R.C.No.27 of 2019

Date :08/01/2019

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

cm 21/01/2019

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