

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Fourth day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice V. PARTHIBAN

CRIMINAL MISCELLANEOUS PETITION No.49 of 2019

IN

CRL.RC.NO.10 OF 2019

S.KRISHNAVENI [PETITIONER]
PROPRIETOR OF M/S.SRI DHARSINI AGENCIES,

Vs

M/S.INDIAN OVERSEAS BANK [RESPONDENT]
REP. BY ITS MANAGER MR.M.BASKARAN,
THIRUNAGAR COLONY BRANCH,
52A, MEENAKSHISUNDARAM STREET,
THIRUNAGAR COLONY, ERODE-638 003.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.RC.NO.10 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence made in CA.No.95 of 2017 dated.07.09.2018 on the file of the Hon'ble 2nd Additional District Judge, Erode cum Additional District Mahila Court(Mahalir Fast Track Court)Erode confirming the judgment passed by the Learned Judicial Magistrate (Fast Track Court-II)Erode in STC.No.474 of 2016 dated.21.03.2017, to undergo simple imprisonment of one year and to pay fine of Rs.5,000/- in default to undergo three months simple imprisonment for the offences u/s.138 of NI Act and set aside the same in CRL.RC.NO.10 OF 2019

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.RC.NO.10 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.DASS AND VISWA ASSOCIATES, Advocate for the petitioner, the court made the following order:-

The petitioner/appellant was convicted for offence under Section 138 of the Negotiable Instruments Act and sentenced to undergo one year simple imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo simple imprisonment for three months, by the learned Judicial Magistrate, Fast Track Court No.2, Erode, under judgment, dated 21.03.2017, in S.T.C.No.474 of 2016. The conviction and sentence imposed by the trial Court was confirmed by the learned II Additional District Judge-cum Additional District Mahila Court (Mahalir Fast Track Court), Erode, under judgment in C.A.No.95 of 2017, dated 07.09.2018. 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. 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.7,50,000/- (Rupees Seven Lakhs Fifty Thousand only) to the credit of S.T.C.No.474 of 2016, on the file of the Judicial Magistrate, Fast Track Court No.2, Erode, within a period of six 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, Erode;

(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/-

04/01/2019

This order, on being produced, be punctually observed and carried into execution by all concerned

WEB TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE 2ND ADDITIONAL DISTRICT JUDGE,
ERODE CUM ADDITIONAL DISTRICT MAHILA COURT
[MAHALIR FAST TRACK COURT], ERODE.

2 THE JUDICIAL MAGISTRATE,
[FAST TRACK COURT-II], ERODE.

3 THE CHIEF JUDICIAL MAGISTRATE
ERODE [FOR INFORMATION]

+1C.C. to M/S.DASS AND VISWA ASSOCIATES Advocate on payment of
necessary charges SR NO.302

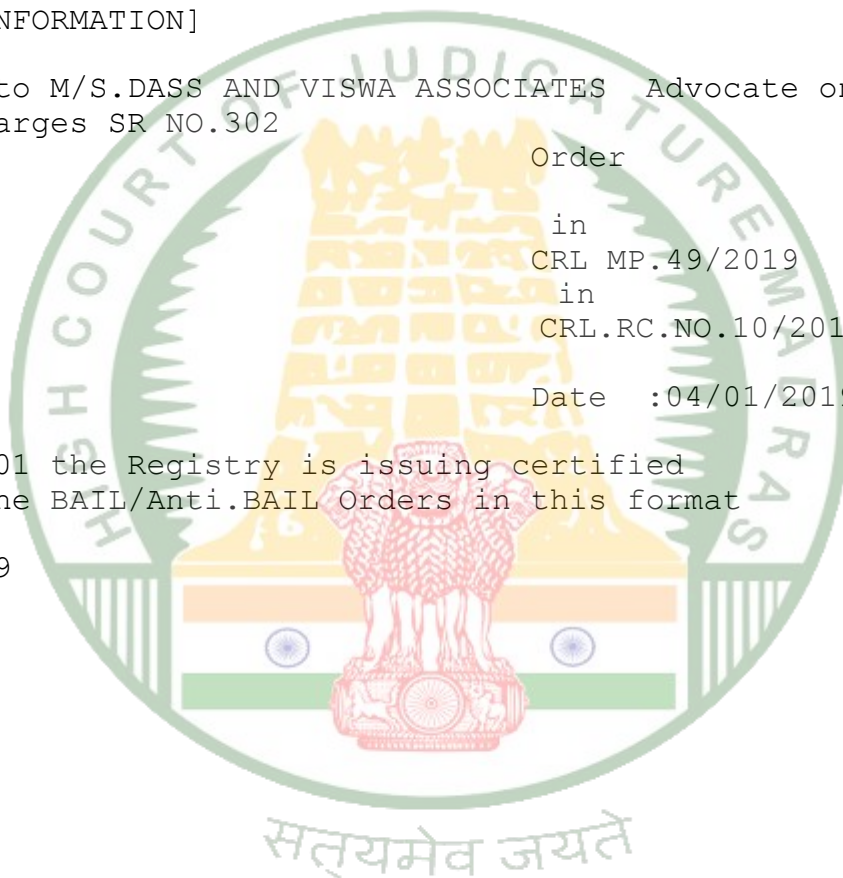
Order

in
CRL MP.49/2019
in
CRL.RC.NO.10/2019

Date :04/01/2019

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

MK:08/01/2019



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